



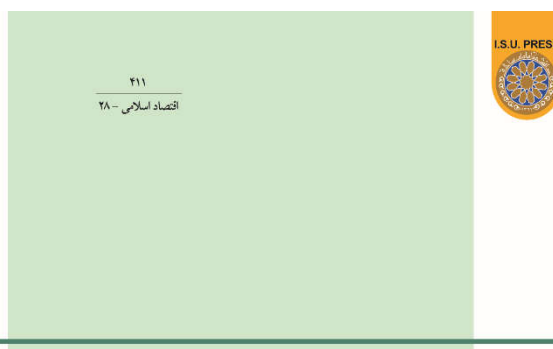
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# Law and Economics in Islam: An Introduction to Economic Analysis of Islamic Legal Institutions

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## Law and Economics in Islam

An Introduction to Economic Analysis of Islamic Legal Institutions  
(With Special Focus on the History of early Days of Islam)

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The field of law and economics has been an integral part of the economic discipline since the mid-1900s. However, in Islamic literature, this historical connection can be traced back centuries. The author of “Law and Economics in Islam: An Introduction to Economic Analysis of Islamic Legal Institutions” aims to highlight the long-standing relationship between Islamic legal institutions and the construction of economic reality. The book delves into the role of these institutions in reducing transaction costs and evaluates their impact on economic institutions, particularly the market, at the beginning of Islam from both a historical and analytical perspective.

In **the inaugural chapter** of his book, Sharifzadeh offers a definition of the nature of law and economics, describing it as a science that endeavors to investigate the mutual influence of legal rules and economic issues. He elucidates that legal rule represents the most crucial regulation governing the game of economic interactions among human elements. Sharifzadeh also discusses the absence of the concept of law and economics in the literature of mainstream economics before the 20<sup>th</sup> century and postulates that the deductive-abstract methodological approach is the primary culprit. The chapter proceeds by introducing Ronald Coase as the primary thinker who developed law and economics and outlines some of his significant contributions, such as the “Coase theorem” - his theory about negative externalities- and also the concept of “transaction costs” in his article “The nature of the firm”. The chapter concludes with a review of existing doctrines in the field of law and economics. Sharifzadeh examines the Chicago approach, which focuses on the economic analysis of legal institutions, as well as the old and new institutionalist approaches, which are primarily concerned with the institutional analysis of economic mechanisms.

In **the second chapter** of his work, Sharifzadeh examines the Arabian Peninsula's situation in terms of transaction costs. He evaluates the costs of locating and attracting potential trading

partners through the lens of two components: the geographical situation and population dispersion, as well as the security of merchants. By illustrating the arid and desert geography as well as the tribal life of the Arabian people and also analyzing the security of the tribes in the form of a club commodity, he tries to show the high costs of exchange from the point of view of locating and attracting potential trading partners. Another component that he deals with in this chapter is the costs of contracting and fulfillment. A similar scenario has been implemented here; The lack of a specific legal system and the lack of defined property rights are among the factors that Sharifzadeh cites for the high exchange costs in this component. Finally, by emphasizing the absence of a powerful and comprehensive government based on historical reports, he shows how relying on private mechanisms to enforce contracts has increased the costs of monitoring and enforcing contracts. Sharifzadeh concludes this chapter by answering the question of how individuals tend to enter into contracts and transactions in a situation with high transaction costs from the perspective of game theory. He clarifies that if the game has a repetitive nature and is repeated in an unlimited horizon, the parties will choose the option of cooperation as the optimal option in the absence of the government and other enforcing mechanisms (p. 131).

**The third chapter** does not aim to present an analytical discussion on the origins of economic jurisprudence in Islam and its relationship with the reduction of transaction costs. Instead, it delves into a historical investigation of the foundations of the formation of economic jurisprudence in Islam. Within this chapter, the author, Sharifzadeh, strives to demonstrate how the legal doctrines of Islam were formed over time. The chapter culminates in the author's demonstration of the predominance of property rights and contractual jurisprudence in the legal heritage

of Islam. This provides a basis for effectively addressing these two issues in the following chapters.

In **the fourth chapter**, Sharifzadeh examines the nature of property rights in Islam and highlights its role in increasing efficiency and reducing transaction costs. The chapter explains how the Islamic legal system by defined and transparent property law reduces transaction costs. The point that stands out clearly in this chapter is the author's innovative classification of the types of ownership in Islam based on the method of decision-making about an asset or its benefits. The chapter further expounds on the classification of property rights based on time and its influence on resource allocation, the extent of private owners' powers, gross public goods, the open access regimes, and the means of protecting property rights in Islam.

in the absence of transaction costs, regulation can be an obstacle to the economic efficiency of contracts. But In situations where transaction costs and incomplete contracts pose a challenge, regulation, and jurisprudence can be instrumental in promoting economic efficiency. By mentioning this introduction, in **the fifth chapter**, Sharifzadeh introduces a set of default rules in Islamic law, such as jurisprudential principles and stylized contracts. He further emphasizes the role of regulation in preventing irrational behavior and asymmetry of information and examines the prohibition of contracts such as “Talaqi Rukban” and “Monabezeh” in Islamic law as examples of regulation in Islam. After referencing a wide set of default rules and regulations in Islamic law, Sharifzadeh expresses concern about readers perceiving Islam as having prevented the freedom of contracting with its rigid laws. He highlights the flexibility of Islamic law, such as the rule of condition, the possibility of defining new contract forms, and the contract of Solh, which guarantees freedom and flexibility in Contracting.

**The final chapter** of this book is dedicated to the legal evaluation of the market institution as one of the main allocation

mechanisms in any economic system. In this chapter, Sharifzadeh criticizes mainstream economics for not paying enough attention to the analysis of the market mechanism. He believes that when it comes to the market mechanism, we must inevitably focus on the legal institutions that form market interactions. Therefore, he argues that the market mechanism is where “individuals can exchange organized bundles of private property rights voluntarily and alternately” (p.314). While in the second chapter, our author demonstrated that there were various temporary and permanent markets before the rise of Islam in the Arabian Peninsula from a historical perspective, in this chapter, he refutes the theoretical existence of the market mechanism in the Arabian Peninsula. He concludes the chapter by demonstrating that Islam established a comprehensive legal and governmental system that provided central elements of the market mechanism in three dimensions goods and services, physical and financial capital (Mudarabah contract), and labor provision (Iqare contract).

Perhaps, if we want to take a historical look at the legal and economic institutions of the Arabian Peninsula at the beginning of Islam and before, we have many different options to study, or we may prefer to refer to classic works in this field. However, what makes us bring this book to the table is its fresh perspective on Islamic legal institutions, viewed through the lens of transaction costs. Reading it can be an inspiring experience for anyone interested in law and economics studies.

