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Autore	Baratono, Diego
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Nota di contenuto	Cover; Table of Contents; Note on Transliteration; List of Frequently Used Arabic Terms; 1 Introduction; 1.1 Islamic Divorces in Europe; 1.1.1 Cultural Diversity in Law; 1.1.2 Bridging Gaps in Legal Diversity: Private International Law; 1.2 Formulation of Two Problems; 1.3 Research Questions; 1.4 Approach and Methodology; 1.4.1 Three-Tier Approach; 1.4.1.1 Identifying the Diversity of Islamic Divorces; 1.4.1.2 Exploring the Diversity of European Recognition Policies; 1.4.1.3 How to Manage the Legal Diversity Adequately?; 1.4.2 Methodology 1.4.2.1 Part I: Islamic Divorces in Classical Islamic and Contemporary Law Compared1.4.2.1.1 Functional Classification of Islamic Divorces; 1.4.2.1.2 Focus on the Status of Women; 1.4.2.1.3 Islamic Divorce: Private or Public Act or Judgment?; 1.4.2.2 Part II: Fourfold Analysis of National Recognition Policies in Europe in a Comparative Perspective; 1.4.2.2.1 Identification of the Framework for Assessment of the Recognition; 1.4.2.2.2 Attention to the Correct Legal Nature of an Islamic Divorce?; 1.4.2.2.3 Assessment of the Degree of 'Openness' towards Islamic Divorces 1.4.2.2.4 Attention to Limping Legal Relationships?1.4.2.3 Part III: How to Identify Adequate Legal Instruments; 1.5 Sources; 1.6 Account for Selection; 1.7 Societal and Academic Relevance; 2 Context; 2.1 Divorce in Europe; 2.2 Women's Rights upon Divorce; 2.2.1 Introduction; 2.2.2

Article 16 Women's Convention; 2.2.2.1 Context; 2.2.2.1.1 'Specialized' Sequel to Other Human Rights Instruments; 2.2.2.1.2 Discrimination and Gender Equality: Its Core Notions; 2.2.2.1.3 Its Relation to Other Articles within the Women's Convention; 2.2.2.1.4 The Women's Convention's Monitoring Mechanisms
 2.2.2.2 Nature of Article 16
 2.2.2.3 Declarations and Reservations; 2.2.3 Closing Remarks; Part I Islamic Divorce Laws and Practices; 3 Introduction; 3.1 Islamic versus Occidental Notion of Divorce; 3.2 Divorce in Islam: The Prerogative of the Husband; 3.3 'Islamic Divorce' Further Explained; 3.4 Structure of Part I; 4 Context: Islamic Law in a Nutshell; 4.1 Islamic or Shari'a Law?; 4.2 Sources; 4.3 Schools of Jurisprudence; 4.4 Some Characteristic Features; 4.5 Shari'a Law Today; 5 Divorce in Shari'a Law; 5.1 Introduction; 5.2 Marriage in Islam and Shari'a Law
 5.2.1 Definition, Characteristics, Purposes, and Types of Marriage
 5.2.2 Categories of (In-)Validity of Marriage; 5.2.2.1 The Valid Marriage; 5.2.2.2 The Irregular Marriage; 5.2.2.3 The Invalid Marriage; 5.3 Dissolution of Marriage: Talaq versus Faskh; 5.3.1 Distinctive Criterion; 5.3.2 Distinctive Legal Effects; 5.4 Divorce by the Husband: The Repudiation; 5.4.1 Nature and Legal, Moral, and Religious Characteristics; 5.4.2 Requirements of Validity; 5.4.2.1 Substantive Requirements of Validity Related to the Divorcer; 5.4.2.1.1 Legal Capacity; 5.4.2.1.2 Intention to Repudiate
 5.4.2.1.3 Being a Muslim

Sommario/riassunto

This book examines the issue of the recognition of Islamic divorces in European states. Repudiation-based divorces are particularly notorious for their presumed violation of fundamental rights of women and are consequently often not recognized. The resulting limping of legal relationships affects other fundamental rights of the persons involved, such as the right to marry and the right of free movement. For this reason, the book scrutinizes classical Islamic divorce law and the contemporary divorce laws and practices of Egypt, Iran, Morocco, and Pakistan, as well as the Dutch, English, and Fre