Can the concept of law be indiscriminately extended to times and places in which it did simply not exist? Such an extension is at best useless and at worst misleading. Producing an intelligible jurisprudence of the concept of law means keeping it within the reasonable boundaries of its contemporary common-sense understanding: positive law. Parallel to Western societies in which it firstly emerged, the concept of positive law developed in many places, including countries characterized as Muslim. There, it faced other existing normativities, like customs and the shari’ā. This book aims, from the Muslim world’s perspective, to clarify the uses of the concept of law and the ways of studying it, to describe some of its historical developments, including the ideas of constitutional law, customary law and forensic evidence, and to describe present-day practices, including reference to law sources, rules and interpretation.

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Positive Law from the Muslim World

JURISPRUDENCE, HISTORY, PRACTICES

BAUDOIN DUPRET
Centre National de la Recherche Scientifique
Sciences Po Bordeaux
I want to return the greetings and separate the noble from the vile

al-Kharimi (Abbasid poet)

To my mother and to Jean-Noël, Joern, and Léon, my friendly triumvirate, who helped me separate the wheat from the chaff
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I subscribe to the idea that a book should be written from beginning to end as a book and not as a collection of articles. Although some of the chapters were published separately, they were all conceived originally as parts of a global book endeavor. They were intended to build on and complete each other, if not to be read incrementally. I am also convinced that research, while mainly solitary, can and should be the outcome of a partly collaborative process. Several chapters were written together with younger colleagues who supplied me with their insights and their materials, and I owe them my immense gratitude. While all the (mistaken) ideas presented in this book are mine, these many colleagues and friends greatly helped me to refine and, even more importantly, to empirically ground them.

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