

# ISLAMIC LAW AND HUMAN RIGHTS

## LAWS2011

The debate surrounding the situation of human rights in Islam is taking on increased significance in various domestic and international settings. In this course, we will examine the profound tension between the competing paradigms of universal human rights and cultural/religious relativism and Islamic law and secularism by looking at current issues and debates.

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### **TIMETABLE:**

Duration of the course: 13 July – 28 August 2009

Lectures: Tuesday 10:15-12:00 (location TBA)

Wednesday 12:15-14:00 (location TBA)

### **COURSE REQUIREMENTS:**

Students are responsible for attending all class meetings and doing the required readings. You will receive 25% for attendance and class participation. In addition, you will be assigned to prepare summaries and critiques of particular readings for presentation to the class. The presentation assignment will comprise 25% and the exam 50% of your final grade.

#### **Attendance and Class Participation (25%)**

#### **Presentation Assignment (25%)**

Each student will be assigned to prepare summaries and critiques of particular readings for presentation to the class.

#### **Exam (50%)**

One-day take-home examination (24 hours on a date to be agreed in class).

### **COURSE OUTCOMES:**

After completing the course you should be able to:

- know the basic principles of Islamic law;
- know the debates around Islamic law and secularism and tensions that exist between Islamic Law and International human rights law;
- identify and understand the competing paradigms between international human rights instruments and Islamic/Regional human rights instruments; and
- contextualize, discuss and critique the debates around Islamic law and international civil and political standards, women rights, terrorism and be able to provide country specific examples;

### **COURSE OUTLINE**

#### **WEEK ONE: INTRODUCTIONS**

Students will be introduced to the concepts and basic principles of ‘human rights’ and ‘an overview of Islamic history’. We will screen documentary “Inside Islam” (History Channel)

Reading:

- Hussain, Mohammad ‘An Introduction to Islam’
- Lakhdar, Lafif '*Moving From Salafi to Rationalist Education*', MERIA Journal, 9, 1, 2005, pp. 30–44.

In class Inside Islam

Additional recommended reading:

- Kamali, Mohammed Hashim *Shari’ah Law: An Introduction* 2008 (One World (Oxford)) 1-67.

#### **WEEK TWO: Sources and development of Islamic law**

Students will be introduced to the concepts and basic principles of ‘Islamic law’ and we will discuss the debates around Islam and the secular state, constitutionalism and Shari’ah and issues of legal pluralism (literally many laws).

Readings:

- Vahed, MA *Islamic Law (Shari'ah) An Introduction to the Principles of Islamic Law* 1-55 (text book).
- An-Na'im, Abdullahi A *Islam and the Secular State, An Overview* [extract].

Additional recommended reading:

- Abou El Fadl, Khaled 'Constitutionalism and Syar'i'ah' in *Islamic & Near E.L.* (2002) 67.
- Hosen, Nadirsyah 'Constitutionalism and Syar'i'ah' in *MurUEJL*, Volume 11, Number 1 (March 2004).

### **WEEK THREE: ISLAMIC LAW AND INTERNATIONAL CIVIL AND POLITICAL STANDARDS**

International human rights instruments will be analyzed with reference to the practices of Islamic states. Saudi Arabia, Turkey and Iran will be used as case studies in our class discussion.

Readings:

- Extract from Report submitted by the special Rapporteur on the right to freedom of opinion and expression, Ambeyi Ligabo on his mission to the Islamic Republic of Iran (4 to 10 November 2003) UN. Doc. E/CN.4/2006/61/Add.3.
- Extract from Report of the Special Rapporteur on the independence of judges and lawyers, Dato' Param Cumaraswamy on her mission to the kingdom of Saudi Arabia (20-27 October 2002) UN. Doc. E/CN.4/2003/add.3.
- Interim report of the Special Rapporteur of the Commission on Human Rights on the elimination of all forms of intolerance and of discrimination based on religion or belief, Abdelfattah Amor, on his mission to Turkey (30 November to 9 December 1999) UN. Doc. A/55/280/Add.1.

Additional recommended reading:

- An- Na'im, Abdullahi 'Religious Minorities under Islamic Law and the Limits of Cultural Relativism' in 9 *HRQ* (1987) 1-18.
- Human Rights Watch Report 'Precarious Justice, Arbitrary Detention and Unfair Trials in the Deficient Criminal Justice System of Saudi Arabia' (2008) 1-25.
- David Weisbrodt, Joan Fitzpatrick and Frank Newman *International Human Rights –Law, Policy and Process* (3d ed 2001) 167-185.

### **WEEK FOUR: ISLAMIC/REGIONAL HUMAN RIGHTS INSTRUMENTS**

Students will be introduced to Islamic/regional human rights instruments.

Readings:

- Cairo Declaration of Human Rights in Islam.
- Universal Islamic Declaration of Human Rights
- Covenant on the Rights of the Child in Islam.
- Arab Charter on Human Rights.

#### **WEEK FOUR: FREEDOM OF EXPRESSION IN ISLAM**

Students will discuss the issues of freedom of expression and respect for culture and tradition by examining the debates around the cartoon controversy.

Readings:

- Saloom R “You Dropped a Bomb on Me, Denmark –A Legal Examination of the Cartoon Controversy and Response as it relates to the Prophet Muhammad and Islamic Law” (2006) 8 *Rugters Journal of Law and Religion*.
- Study of the United Nations High Commissioner for Human Rights compiling existing legislations and jurisprudence concerning defamation of and contempt for religions. UN. Doc. A/HRC/9/25.

Additional recommended reading:

- Baderin MA *International Human Rights and Islamic Law* 125- 129.
- Goolam NMI “The Cartoon Controversy: a note on freedom of expression, hate speech and blasphemy” (2006) *CILSA* 333-350.

#### **WEEK FIVE: MUSLIM PERSONAL LAW**

We will examine issues of Muslim Personal law, such as marriage, divorce, and inheritance.

Readings:

- Shah NA ‘Women’s Human Rights in the Koran: An Interpretive Approach” (2006) 28 *Human Rights Quarterly* 884-903.
- Extract from Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk on her mission to the Islamic Republic of Iran (29 January to 6 February 2005) UN. Doc. E/CN.4/2006/61/Add.3.
- Extract from the Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk, on her mission to Algeria (21-31 January 2007) UN Doc. A/HRC/7/6/Add.2.

Additional recommended reading:

- An- Na'im, Abdullahu 'Rights of Women and International Law in the Muslim Context' 9 W. HITTIER. L. R. EV . 491 (1987).

### **WEEK SIX: TERRORISM**

We will screen two documentaries: 1) "Paradise Now" directed by Hany Abu-Assad, with Lubna Azabil, Hamza Abu-Aiaash and Kais Nashif. 2) We will screen portions of Noam Chomsky's lecture titled "Distorted Morality".

In class: "Paradise Now" and "Distorted Morality"

Readings:

- Nasr SH *Islam and the Question of Violence*, Al Serat Vol. XIII.No 2.
- Munir, Muhammad 'Suicide attacks and Islamic law' *International Review of the Red Cross* (2008), 90:71-89.
- An-Na'im Abdullahi A 'Why should Muslims Abandon Jihad? Human Rights and the future of International Law' in *Third World Quarterly*, vol. 27, No. 5 (2006) 785-797.

Additional recommended reading:

- David Cook. "Women Fighting in Jihad?" (2005) *Studies in Conflict and Terrorism*, 28:375-384.