Conference on Islam and Europeanization – legal perspectives

Friday 4 October 2019
CECS
Room: Auditorium Alf Ross, room 9A.3.01, Faculty of Law, Njalsgade 76, DK-2300 Copenhagen S

PROGRAM

09.30 – 09.40
Welcome: Hanne Petersen
Professor of Legal Cultures, CECS, Faculty of Law, University of Copenhagen. Her research focuses on legal culture and legal pluralism - especially on changes of legal cultures. She has written extensively on issues related to gender and legal culture as well as on Chinese and Greenlandic legal culture. She was involved in UCPH’s research priority area, Religion in the 21st Century, and in the EU research project, RELIGARE (Religious Diversity and Secular Models in Europe.
Innovative approached to Law and Policy).

Part 1: Islamic law in a European context

09.40 – 10.15
Understanding Sharia in Europe
By Prof. Dr. Maurits S. Berger, Leiden University

Sharia is not a mere foreign implant in a European legal and social environment. It is the product of Muslim needs for their religious life and European responses towards religion in general and Islam in particular. In this presentation, we will analyze these needs and responses to find an approach to the notion of ‘Sharia in Europe’.

Maurits Berger holds the Sultan of Oman chair of Islam and the West at Leiden University Centre for the Study of Religion. He has worked as a lawyer in Amsterdam, and as a researcher and journalist in Cairo and Damascus. He has published amongst others the book “A Brief History of Islam in Europe. Thirteen Centuries of Creed, Conflict and Coexistence” (2014, Leiden University Press) and was the editor of the book “Applying Shari'a in the West” (2013, Leiden University Press).

10.15 – 10.40
To register or not to register? Muslim marriage practices in the
United Kingdom. Some reflections from the field
By Prof. Dr. Shaheen Sardar Ali, Warwick University

The presentation will focus on Shaheen Sardar Ali’s latest fieldwork. Muslim marriages in the UK are conducted in a variety of ways. Some enter into a nikah officiated over by an imam or other agreed upon person and leave it at that. Others would like to be considered husband and wife not only under Islamic law but also by the state in which they have chosen to live and so undergo a civil ceremony and sign the marriage register. In the recent past, the spotlight is on the unspecified numbers of unregistered Muslim marriages. However, there is dearth of empirical grounded research among Muslim communities to ascertain how widespread this practice is. The present research started out by mapping registered places of Muslim worship in Coventry in the West Midlands and of these to see how many were registered to conduct marriages. Having completed the mapping exercise, the present research developed a survey form to ascertain Muslim marriage practices in selected communities in the UK engaging with Muslim communities from Coventry, Birmingham, London, Bolton, Preston and Wigan, Lancashire. In addition to survey findings, Shaheen Sardar Ali also attended a number of gatherings of Muslim communities in these towns and cities to ascertain how Muslims in Britain conduct their marriages and reasons and factors influencing and informing their decisions. This presentation presents some of the findings and reflections of this fieldwork conducted over the past twenty-four months.

Shaheen Sardar Ali is Professor of Law at Warwick University. She has especially researched within areas of Islamic law and human rights, with a focus on the rights of women and children. She was the first chairperson of The National Commission on the Status of Women of Pakistan and is used as an expert witness in Islamic law by courts in both the US and the UK.

10.40 – 11.00
Break

11.00 – 11.15
Commentator: Mikele Schultz-Knudsen. PhD-student, CECS, Faculty of Law, University of Copenhagen. His thesis focuses on the use of Islamic law in Denmark and the relation to Danish law. He has worked as a Danish attorney before commencing his PhD. He is a trained mediator and has been involved in dialogue-projects between Denmark and the Middle East for many years.

11.15 – 12.00
Panel Discussion and Q/A

12.00 – 13.00
Lunch break

Part 2: Legal approaches to Islam in Europe
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| 13.00 – 13.35 | **European Islam in the Age of Globalisation and Legal Pluralism: Not Easy Being European**  
By Prof. Dr. Werner Menski, University of London  

*This presentation argues that in the age of globalisation and legal pluralism, it becomes increasingly non-sensical, and in fact reductionist and dangerous, to insist that either 'law' or 'religion' as monist entities can help in managing sustainably how we live together in Europe, as well as how we construct multi-cultural societies and legal orders that do not violate the basic rights of non-majoritarian participants at different levels or scales. The presentation attempts to show how the flexible basic principles of legal pluralism preserve awareness of the surprisingly agile agency of various legal and religious stakeholders to allow situation-specific navigation that addresses the presumed modern challenges to Islamic law as well as the presumed religious challenges to European secular modernity.*  

Werner Menski is Emeritus Professor at SOAS (School of Oriental and African Studies), University of London. Specialized in Hindu Law and Islamic Law in Southern Asia. He has published "Comparative Law in a Global Context: The Legal Systems of Asia and Africa" (2006, Cambridge University Press) and many other books. |
| 13.35 – 14.10 | **The role of the European Court of Human Rights in relation to Islam across Europe**  
By Senior Research Fellow Dr. Effie Fokas, Hellenic Foundation for European and Foreign Policy, Athens, Greece.  

*Amongst its many critical engagements with issues of religious freedom, the European Court of Human Rights (ECtHR) has developed a robust jurisprudence relevant to Islam in Europe. In this presentation, Effie Fokas will provide an overview of the latter, including cases in which Islam is a minority faith as compared with those in which it is a majority faith, and consideration of changes over time in the Court’s handling of Islam. Attention will be paid to scholarly criticism of the Court’s engagements with Islam where the latter is compared with its treatment of majority Christianity. Differences with the budding relevant case law of the Court of Justice of the European Union will also be considered.*  

Effie Fokas is a researcher at the Hellenic Foundation for European and Foreign Policy. She has completed a Marie Curie Fellowship on ‘Pluralism and Religious Freedom in Orthodox Countries in Europe’ and has published within areas concerning the relationship between religion and politics, the relationship between religion and nationalism, religious freedom and the sociology of religion in Europe, where she has especially focused on Islam and Orthodox Christianity. |
| 14.10 – 14.25 | **Commentator: Malthe Hilal-Harvald.** |
PhD-student, CECS, Faculty of Law, University of Copenhagen. His thesis focuses on the regulation of certain Islamic practices in Europe. In his current research, Hilal-Harvald is working on an institutional model for understanding the convergences and divergences in legislative strategies on Islamic practices in Western Europe. He is particularly interested in the construction of Islam as a civilizational enemy and the interplay between militant democracy and constitutional review. Hilal-Harvald has previously been a Research Fellow at the Max Planck Foundation for International Peace and the Rule of Law, Heidelberg, Germany.

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| 15.40 – 16.15 | The Europeanisation of Islamic finance and the potential for better financial, economic and social inclusion of Muslims in Europe  
By Prof. Dr. Torkel Brekke, Oslo Metropolitan University |

This presentation presents some key findings from an ongoing multidisciplinary research project about the financial exclusion of Muslims in the Nordic countries and its consequences. It then looks at some major initiatives to establish Islamic financial services in Europe and discusses some key legal and political obstacles to such initiatives on EU level and in selected national contexts.

Professor Torkel Brekke has for many years researched religion and politics, as well as cultural and religious transformations, including the ethics of war in world religions. He is currently leading a research project on “Financial exclusion, Islamic finance and housing in the Nordic countries” at the Peace Research Institute Oslo.

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| 16.15 – 16.50 | Islam in Europe: is 'Freedom of religion' the appropriate approach?  
By Director and Prof. Dr. Marie-Claire Foblets, Max Planck Institute, Halle, Germany |

This presentation submits some insights gained from two recent research projects, in particular from some of the empirical findings that were collected through these projects. These findings question the way issues that regard the participation and incorporation of Islam - with its own complexities - within the domestic legal framework of European countries - are being addressed. Participation and incorporation of Islam is usually perceived as an issue of human rights protection, in particular of the freedom of religion and belief. But is this the appropriate approach? First, the speaker will briefly situate the two research projects. Second, she will regard as an issue the stronger protection granted in many domestic legal orders to mainstream/majority religions, i.e., the belief systems that are perceived as ‘home-grown’. Third, she will address the...
role of courts in the protection of religion and belief, with a focus on some of the difficulties that accompany the application, on a case-by-case basis, of human rights standards to very different situations and contexts. Human rights allow for at least three different reactions to for protection of the freedom of religion and belief. One of these is, paradoxically, overprotection of religion. This in turn invites strategic litigation: religion is turned into an instrument that provides legal grounds to claims that would otherwise not be granted. One could speak of the ‘religionization’ (giving religious meaning) of claims that are brought before courts. This approach is not without risks.

Marie-Claire Foblets was formerly professor at Leuven University in Belgium and has since been Director of the Department ‘Law & Anthropology’, Max Planck Institute for Social Anthropology, Halle/Saale, Germany. She focuses on plural societies and the conditions for sustainable peace among diverse groups and has published extensively in these areas. She has been a member of various networks of researchers focusing either on the study of the application of Islamic law in Europe or on law and migration in Europe. She was the Principal investigator of the EU funded research project RELIGARE (Religious Diversity and Secular Models in Europe. Innovative approached to Law and Policy) (2010-2013)

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<td>16.50 – 17.05</td>
<td>Commentator: Kumm Sabba Mirza has completed a PhD at the Faculty of Law, University of Copenhagen focused on honour-related crimes. During her studies, Sabba has worked in the Danish Parliament as a legal advisor and as lay judge in the District court of Copenhagen.</td>
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