

## **SHORT DESCRIPTION OF THE COURSE: Islamic Criminal Law**

**Rationale:** Islam is very much in the news and within this media coverage Islamic criminal law is the pariah: deemed inexplicable, cruel and anachronistic. So, why study it?

First, by understanding the methodology, jurisprudence, and some substantive criminal laws students appreciate why such diversity of interpretations under the banner of Islamic law occurs. More than in any other branch of Islamic law, variation across the Muslim world is most apparent. This makes Islamic criminal law an ideal vehicle for understanding Islamic jurisprudence and for evaluating the impact of colonisation, codification, *ijtihad* and reform.

Second, Islamic criminal law today plays an important symbolic role as the 'litmus test' for whether a Muslim government is truly Islamic. Rulers and governments who share this view strive to implement Shariah criminal law to demonstrate their legitimacy as true guardians of Islam. Since the Iranian Revolution, this has become integral to resurgence of literalist, conservative Islam. Whilst only a dozen of the 44 Muslim majority nations today have taken this course, scholars, political parties and movements in many other Muslim nations promote this direction.

At the same time, Islamic criminal law is also the most reformed area of Islamic law where the primary texts have been re-interpreted in light of changed and changing conditions. Traditionalism has been subsumed by reform in which the objectives of the Quranic texts continue but also comply with human rights principles and international norms.

**Method:** The course is comparative. The comparison is not only with modern, secular or European systems, but also between Muslim nations and within some Muslim countries. As a former criminal barrister and a non-Muslim, the approach in the lecture is that of an informed but neutral outsider with no agenda to promote one interpretation of Islamic criminal law, but to show how and why many are possible and to encourage independent and critical thinking.

**The course has four broad sections.** The first considers the features of Islamic criminal law: its sources of law, classifications, methodology and institutions. The impact of colonisation, the creation of nation states, the codification of the Shariah, globalisation, international law and movements for re-Islamisation.

The second part builds on foundation to look at specific applications of Islamic criminal law, *hudud*, *qisas* and *diyat* and *ta'zir* offences, and the laws of evidence and procedure.

The third part offers an analysis of Islamic criminal law as a protector of morals and Islam itself. Canvassed are offences of adultery, homosexuality, and proximity, apostasy and blasphemy

The last part focuses on today's global co-existence of Muslims and non-Muslims within European nations. Points of tension for Muslim minorities living in Europe are considered and the challenges for modern criminal legal systems: *burqa* bans, underage or forced marriages, honour killings and cultural defences.

**The mode of teaching** is a blend of lecture, discussion, and student contribution. Core content is given in class with complimentary readings. Case analysis is used to illustrate content, and each seminar has one or more issues [with notice] for discussion. Classes are interactive and given the interest & relevance of the content are quite dynamic. Students contribute to content through a short but prepared [and assessable] talk of 2-3 minutes on a topic of Islamic culture, history, or process that relates to the topic under consideration and also work together in small groups to present an overview in class of a Muslim nation's criminal law and procedure, and legal culture.