

## **ISLAM IN ENGLISH LAW**

Thursday 4 June 2009, 5.30 – 7.00 pm

Temple Church, off Fleet Street, London EC4Y 7BB

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*Now we address directly a central question raised throughout this series of public discussions. We hope you can join us, with as many colleagues and friends as will find the discussion of interest.*

# **Shari'a and Secular Democracy: Is Islamic Law compatible with the European Convention on Human Rights?**

*In discussion:*

**Professor Dominic McGoldrick,  
Liverpool University**

**Professor Mashoud Baderin,  
School of Oriental and African Studies**

£10; free for all students of the Inns of Court and Universities,  
and for University lecturers. Booking at

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**CPD Points applied for (BSB and Law Society): 1.5 hours**

*The formal dialogue will be followed by Questions and Answers.*

All human beings form one family whose members are united by their subordination to Allah and descent from Adam. All men are equal in terms of basic human dignity and

basic obligations and responsibilities, without any discrimination on the basis of race, colour, language, belief, sex, religion, political affiliation, social status or other considerations. The true religion is the guarantee for enhancing such dignity along the path to human integrity... All the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari'ah. The Islamic Shari'ah is the only source of reference for the explanation or clarification of any of the articles of this Declaration. – Organisation of the Islamic Conference, *Cairo Declaration of Human Rights in Islam*, 1990, Articles 1 (a), 24, 25.

Woman is equal to man in human dignity, and has her own rights to enjoy as well as duties to perform, and has her own civil entity and financial independence, and the right to retain her name and lineage. – CDHRI, Article 6 (a)

Shari'a 'clearly diverges from Convention values, particularly with regard to its criminal law and criminal procedure, its rules on the legal status of women and the way it intervenes in all spheres of private and public life in accordance with religious precepts.' – Majority Judgment, *Refah v Turkey* [2001] European Court of Human Rights 491, para 72.

'The appellant came to this country as a fugitive from Shari'a law..... This system was described by counsel during the argument as arbitrary and discriminatory. So it is, if it is to be measured by the human rights standards that we are obliged to apply by the Convention. The mutual enjoyment by parent and child of each other's company is a fundamental element of family life. Under our law non-discrimination is a core principle for the protection of human rights. The fact is however that Shari'a law as it is applied in Lebanon was created by and for men in a male dominated society. The place of the mother in the life of a child under that system is quite different under that law from that which is guaranteed in the Contracting States by article 8 of the Convention [ECHR] read in conjunction with article 14. There is no place in it for equal rights between men and women.' – Lord Hope *EM (Lebanon) v Sec of State for Home Dept* [2008] AER (D) 206 at paras 5-6.

The European Convention on Human Rights:  
<http://conventions.coe.int/treaty/en/Treaties/Html/005.htm>

*We are very grateful to the principal participants in this discussion:*

**PROFESSOR MASHOOD BADERIN**

Professor Baderin is currently Professor of Law at the School of Oriental and African Studies (SOAS), University of London. He was formerly Professor of Law at the Brunel Law School, Brunel University and Reader in International Human Rights Law and Director of the International Law and Human Rights Unit, School of Law, University of the West of England, Bristol. He is founding co-editor of the *Muslim World Journal* of

Human Rights. His recent books include *International Human Rights and Islamic Law* (Oxford Monographs in International Law (2003) and *International Law and Islamic Law* (2008).

## PROFESSOR DOMINIC MCGOLDRICK

Professor McGoldrick is Professor of Law and Director of the International and European Law Unit, University of Liverpool. He is a specialist in Human Rights Law. In 1999-2000 he was a Fulbright Distinguished Scholar and a Human Rights Fellow at the Harvard Law School. He is the author of *From 9-11 to the Iraq War 2003 - International Law in an Age of Complexity* (2004) and of *Human Rights and Religion – The Islamic Headscarf Debate in Europe* (2006).