

CIMEL

Centre of Islamic & Middle Eastern Law



Introduction

The publication of this brochure marks the achievements of the Centre of Islamic and Middle Eastern Law (CIMEL) since its establishment at the School of Oriental and African Studies.

In this short period CIMEL has been able to enrich the field of Islamic and Middle Eastern Law through the development of academic and practical programmes, and through the establishment of a continuous dialogue between the Western, Middle Eastern and Islamic legal communities. This interaction is reflected in the constitution of our Council from whose variety and dedication we hope to be able to benefit even more in the future.

CIMEL has a strong and committed staff and a reputation in the field which is further enhanced by the individual work carried out by its members and associates. The multilingual nature of the Centre has been reinforced by these professional connections, and it has developed a material capability which allows us to function in several Western and Middle Eastern languages. This will enable the Centre to contribute more effectively and to pursue its objectives as a distinctive link in the field of international and comparative law.



Eugene Cotran, Chairman



Chibli Mallat, Director

May 1994



Establishment

The Centre of Islamic and Middle Eastern Law was established in 1990 at the School of Oriental and African Studies in recognition of the growing importance of law in both its Islamic and Middle Eastern dimensions. The analysis of the various systems of law at work in the Islamic and Middle Eastern world as well as an active interaction with Middle Eastern and Muslim lawmakers and scholars are crucial for the future of stability and for the rule of law in its various forms inside each jurisdiction. The rule of law will also determine the parameters of the relationship with Europe and the West generally. In an increasingly small and interdependent world, CIMEL operates as a scholarly legal bridge for research and practice at the crossroads of Islam, the Middle East, and the West.

Cimel's Objectives

- (i) the promotion of the study and understanding of Islamic law and modern Middle East legal systems, individually and comparatively, by encouragement of research and by means of lectures, publications, conferences, seminars, academic visits and exchanges and other related activities.
- (ii) the fostering of links between all persons involved in Islamic and Middle Eastern law, including academic specialists, legal practitioners, members of the business community, government and other interested persons, whether in the United Kingdom, the Middle East or elsewhere;
- (iii) the provision of services (academic and practical) from the resources of the Centre to subscribing members.
- (iv) the raising of funds, to be managed by the Centre, for the furtherance of these objects.

Structure

The Chairman



Professor H.H. Judge Eugene Cotran was born in Jerusalem, and educated at Victoria College, Alexandria. He read law at the University of Leeds (LL.B. and LL.M.) and went to Trinity Hall, Cambridge, for research in international law (Dip. I.L., Cantab). Eugene Cotran was called to the English Bar in 1959. He joined SOAS in 1960 first as a Research Officer in African law, then as Lecturer until 1977. During that period, he also practised at the English Bar, specialising in the Privy Council, commonwealth law, and immigration law. He was seconded to the Government of Kenya between 1961 and 1963 to carry out a *Restatement of African Law* (Marriage and Divorce, volume 1; Succession, volume 2) and again in 1967-1968 to be Secretary and Member of the Commissions on the Law of Marriage and Divorce and the Law of Succession. His extensive publications resulted in an LL.D. awarded by the University of London in 1971 in respect of his work on African law.

In 1977 Eugene Cotran was appointed to be a High Court judge in Kenya. He returned to his practice at the London Bar in 1982, again in the fields of commonwealth law, immigration and international commercial arbitration. He is the General Editor of *Butterworths Immigration Law Service* and is on the editorial board of various commonwealth and Middle Eastern law publications and journals. He is a fellow of the Institute of Chartered Arbitrators and has acted as Chairman or Member in various Middle Eastern arbitrations conducted by the ICC Court of International Arbitration in Paris and by the London Court of International Arbitration. He is the Secretary of the Pan African Council of the LCIA.

Eugene Cotran continued his previous association with SOAS on a part-time basis in 1988 when he was appointed a Visiting Professor of Law with reference to Africa and the Middle East, and has acted as Chairman of CIMEL since 1990. He was appointed one of her Majesty's Circuit Judges in the U.K. in 1992.

The Director

Chibli Mallat studied Lebanese and French law at the Université Saint Joseph and English literature at Beirut University College and the American University of Beirut. He received an LL.M. from Georgetown University, specialising in international and comparative law. After a period of practice in Paris and Beirut, he returned to the United States as Visiting Scholar at the School of Law (Boalt Hall) of the University of California at Berkeley, and worked on Islamic and Middle Eastern Law. He was appointed in 1988 Lecturer in Islamic Law at SOAS. He has been the director of CIMEL since October 1992.

Dr Mallat has authored more than fifty studies, in several languages, on Islam and the Middle East, and is the editor of three books on Islamic law. His book on the *Renewal of Islamic Law* was published by Cambridge University Press in 1993. Two other edited books will appear in 1994 on water law and on commercial law in the Middle East, and an *Introduction to Middle Eastern Law* is in the final stages of preparation. He has lectured extensively in the Middle East, Europe and the United States, and spoken at various public and academic fora, including the British House of Commons and the U.S. Senate.

Dr Mallat has acted as legal advisor on Middle East laws for law firms in Europe, the U.S., and the Middle East, for international organizations such as UNHCR and the World Bank and for governments. He is a member of the Lebanese bar and is registered with a leading Lebanese law firm.

The Executive Committee

Professor J. Anthony Allan, Professor of Geography and Dean of Continuing Education, SOAS.

Professor William Ballantyne, Barrister and Visiting Professor, Law Department, SOAS.

Mr Ian Edge, Barrister and Lecturer, Law Department, SOAS.

Dr Doreen Hinchcliffe, Barrister and Visiting Lecturer, Law Department, SOAS.

Dr Mark Hoyle, Barrister and Editor, *Arab Law Quarterly*.

Dr Peter Slinn, Head, Law Department, SOAS.

Dr Charles Tripp, Chairman, Centre of Near and Middle Eastern Studies, SOAS.

The Council

Professor Sir Norman Anderson, Emeritus Professor of Oriental Laws, SOAS.

HE Dr Husein El-Baharna, Minister of State for Legal Affairs, Bahrain.

Sir James Craig, former Ambassador of H.M.G. to Saudi Arabia and Syria.

Mr Michael Davies, Partner, Nabarro Nathanson, Solicitors.

Lord Goff of Chieveley, Lord of Appeal in Ordinary.

Mr Alistair Graham, Managing Director, Graham & Trotman.

Sheikh Salah Al-Hejailan, Chairman, Euro-Arab Higher Arbitration Board and leading Saudi advocate.

Professor Enid Hill, Chairman, Department of Political Science, American University of Cairo.

Professor Ahmad Ibrahim, President of the Islamic International University, Malaysia.

Mr Peter James, Senior Partner, Peter James & Co., Solicitors.

Mr Fathi Kemicha, Secretary General, Euro-Arab Arbitration System, Paris.

HE Mr Awn El-Khassawneh, Legal Advisor, Kingdom of Jordan.

Professor Ahmed El-Kosheri, Advocate of Kosheri, Rashed and Riad of Cairo and ad hoc judge at the International Court of Justice.

Dr 'Awad El-Morr, President, Supreme Constitutional Court, Egypt.

HE Mr Najeeb al-Nauimi, Minister Legal Advisor, State of Qatar.

Mr Richard Price, Partner, Clifford Chance, Solicitors.

Dr Anis Al-Qasem, Barrister, Chairman, Legal Committee, Palestine National Council.

Mr Peter Rooke, International Bar Association Middle East Section, Solicitor.

Mr Nabil Saleh, Middle East Legal Consultant, Beirut and London.

Mr David Sarre, ICC Representative in the UK.

Dr Mohammed El-Sayari, Director General for Legal Affairs, Gulf Cooperation Council.

Dr Naguib Shammiri, President, Criminal Chamber, Supreme Court of Yemen and Member of Yemen's Supreme Constitutional Court.



HE Dr Abdel Qader Shereef, Ambassador of Tanzania to Saudi Arabia.
Mr B.W. Vigrass, Executive Director, London Court of International Arbitration.
Dr Frank Vogel, Assistant Professor, Harvard Law School.
HE Dr Ratib Al-Wazani, former Minister of Justice, Jordan.
Lord Woolf, Lord of Appeal in Ordinary.
Mr Hatem Zu'bi, Legal Counsel and Arbitrator, Bahrain and London.

Research Staff

Dr Mai Yamani is Research Associate of CIMEL with a particular interest in women and women's rights in the Middle East. After studying anthropology at Bryn Mawr (BA) and Oxford (MA), she completed her doctoral thesis on "Formality and Propriety in the Hijaz" in Oxford in 1989. She has taught at King Abdul Aziz University in Saudi Arabia, and lectured widely in the Middle East, Europe and the United States.

Dr Sumbul Ali-Karamali completed her LLM in Islamic law at SOAS in 1993. She earned her BA from Stanford and her JD from the University of California and is a member of the California Bar. She assists with the teaching and research at SOAS and is preparing a book on the perception of Islam and Islamic law.

Other part-time assistants and associates include Ms Serra Kirdar, judge Ghayth Mismar, Mr Hani Sarialdine, Mr Ibrahim al-Jazy, Mr Khaled al-Barazi, Mr Alex Calvo, Ms Leila Zwaini, Ms Nathalie Blezard, Mr Salman Raja, Mr Razi-ul-Abbas Shah.



*The School of Oriental and African Studies
Main building and library*

Location

CIMEL benefits from the unique location London offers as a centre for the business, academic and diplomatic communities.

At the School of Oriental and African Studies, CIMEL works within the Law Department, whose scholarship in Islamic and Middle Eastern Law is unrivalled in the Western world, as it was built over fifty years through the tenures of Professors S. Vesey-Fitzgerald, Sir Norman Anderson, and Noel Coulson. The Law Department was founded in 1947. Since 1975, it has been offering an LLB degree course and two-subject BA degree courses, including the possibility of a thorough training in both law and an Asian or African language. The Law Department moved at the end of 1993 to its present location in a listed building located at 47 Russell Square, in association with the Foundation for International Environmental Law and Development. *The Law Reports of the Commonwealth*, the *Journal of African Law* and the *Review of European Community and International Environmental Law* are edited within the Department. In addition, the Department participates in the University of London LLM programme together with the Institute of Advanced Legal Studies and four other London law schools.

Research

The research already undertaken and the publications which resulted are unparalleled in Islamic and Middle Eastern law. Whether by lecturers or by research candidates, many of the studies achieved at SOAS were published and stand as major references in Islamic and Middle Eastern law. There is also an impressive record of law alumni in leading positions in government, legal practice or academia throughout the world.



From Recent Postgraduate Research in Islamic and Middle Eastern Law at SOAS

- Abdul Wahab Abu Sulaiman, *The role of Ibn Qudama in Hanbali jurisprudence*, PhD 1971.
- Muhammad Ibrahim Ahmad Ali, *Social responsibilities of the individual and the state in Saudi Arabian law*, PhD 1971.
- Mohamed Abdall Selim El-Awa, *The theory of punishment in Islamic law - a comparative study*, PhD 1972.
- Doreen Hinchcliffe, *The Islamic law of marriage and divorce in India and Pakistan since partition*, PhD 1972.
- Christina Chlora Jones, *The law of bequests in the context of land reform in Tunisia*, PhD 1973.
- Mohammad Hashim Kamali, *Matrimonial problems of Islamic law in contemporary Afghanistan*, PhD 1975.
- Said Hussein Khadr, *Extradition Law and practice in Egypt and other Arab states*, PhD 1977.
- Abdulaziz Mohammed Zaid, *Law of bequest in traditional Islamic law and in the contemporary law of Saudi Arabia*, PhD 1979.
- Norman Calder, *The structure of authority in Imami Shi'i jurisprudence*, PhD 1980.
- Salih Al-Kuhaimi, *Contract law and the judicial system in Saudi Arabia*, PhD 1982.
- Muhammad Nazmul Hoque, *A critique of the law of waqf in Bangladesh*, PhD 1982.
- Mark Hoyle, *The Mixed Courts of Egypt, 1875-1949; a study of their development and operation, and their influence on post-war Egyptian law*, PhD 1984.
- Richard Mabruk Mulla, *Legal aspects of decentralization of government in the Sudan*, PhD 1987.
- Abdel-Naim Wandieen, *The Role of the constitution and domestic law in the implementation of the modern international standards of human rights. A case study of Jordan*, PhD 1988.
- Deborah Ann Rice, *The principles of Islamic maritime law*, PhD 1989.
- Lynn Welchman, *The Islamic law of marriage and divorce in the Israeli-occupied West Bank*, PhD 1993.
- Nick Thani, *Legal aspects of the regulatory framework in the Malaysian financial system*, PhD 1993.

Research at postgraduate level in Islamic law has been conducted with reference to several Asian and African countries. Current research includes civil law in Iran, the financial system in Nigeria, the Jordanian law of obligations with reference to Islamic law, Saudi constitutional developments, the law of contracts in Cameroon, the first federal Parliament (the Ottoman *Majlis-i Mab'uthan*) in the Middle East.

Major Activities



*Professor El-Kosheri delivering
the 1993 Coulson lecture*

(1) Lectures and Seminars

CIMEL convenes the annual memorial lecture of the late Professor Noel Coulson and the Hejailan lectures, which were made possible by a generous grant from Sheikh Salah al-Hejailan.

Coulson Lectures

"Islamic law today" by Professor Norman Anderson.

"Back to the shari'a?" by Professor William Ballantyne.

"Old light on new law - recent Islamic decisions (fatawa) on ijihad from South East Asia" by Professor Barry Hooker.

"Reflections on the Arab-Islamic modern approaches to Lex Mercatoria" by Professor Ahmed El-Kosheri.

"The future of commercial law in the Gulf" by HE Dr Husein El-Baharna.

From the General Lecture Series - Hejailan Lectures

"How does Islamic law change?" by Prof. Baber Johansen, Free University, Berlin.

"Recent Developments in the law relating to Muslim communities in Britain", by Prof. David Pearl, Dean, Law School, University of East Anglia, Norwich.

"The new financial instruments of Islamic banking", by Dr Rodney Wilson, Durham University.

"Secular justice in an Islamic state", by Dr Jorgen Nielsen, Director, Centre for Study of Islamic and Christian Relations, Selly Oak, Birmingham.



"The jurisprudence of the Supreme Constitutional Court of Egypt", by Dr 'Awad El-Morr, Chief Justice, Supreme Constitutional Court of Egypt.

"Property rights in the Middle East", by Dr Farhat Ziadeh, Emeritus Professor of Islamic and M. E. Law, U. of Washington, Seattle.

"Commercial law in the Middle East", by Ian Edge, Law Department, SOAS.

"Tactics and strategy for the rule of law in Iraq", by Dr Ahmad Chalabi, President, Executive Committee, Iraqi National Congress.

"Islamic law in Malaysia," by Professor Ahmad Ibrahim, President, International Islamic University, Malaysia.

Feminism and Islamic Law



Dr Mai Yamani inaugurating the feminism and Islamic law series

Since October 1993, a series on the topical issue of "Feminism and Islamic law: Contextual Approaches" has been convening under the direction of Dr Mai Yamani (book forthcoming, Ithaca Press, 1995). The Centre has received a generous donation from Investcorp for the series.

"Feminism behind the veil: traditional roles and modern aspirations of women in Saudi Arabia" Dr Mai Yamani, CIMEL, SOAS.

"Reflections on women, feminism and Islam: an historical overview" Professor Leila Ahmed, University of Massachusetts.

"Women, Islam and patriarchalism" Dr Ghada Karmi, CNMES, SOAS.

"Women and legislation in the age of equality" Dr Chibli Mallat, CIMEL, SOAS.

"Muslim women in Egypt during the 18th/19th century" Professor Afaf Lutfi Marsot, U.C.L.A..

"Women and the Islamist movement in the Middle East" Dr Maha Azzam, RUSI.

"Stretching the limits: women, law and politics in Iran today" Dr Ziba Mir-Hosseini, University of Cambridge.

"Women's rights in Islam: the case of Algeria" Aicha Lemsine Laidi, Algiers.

"Women in Islamic law" Raja Al Nimr, Islamic College.

"Islam and feminism: an analysis of political strategies" Dr Haleh Afshar, University of York.

"Women and law in Kenya" HH Prof. Judge Eugene Cotran, CIMEL, SOAS.

"Parliament and women: the Jordanian experiment" Mrs Taujan Faisal, MP (Jordan).

(2) Middle East Legal Practitioners' Forum

To complement and enrich its academic achievement, the Middle East Legal Practitioners' Forum (MELPF) was established at the end of 1990, jointly with Mrs Hilary Lewis-Rutley (Law and Development Programme, Institute of Advanced Legal Studies), to foster in particular the links with lawyers in London and in the Middle East. It has run a series of seminars and conferences.

From the MELPF Series

"Legal issues arising from the Gulf Crisis", Panel: Michael Davies, Nabarro Nathanson; Jeremy Carver, Clifford Chance; Ben Browne, Clyde and Co.

The Gulf Crisis: the Iraq-Kuwait border and related legal issues"; by Professor Maurice Mendelsohn, UCL.

"Claims against Iraq- The current status", by Mahir Jalili.

"Arab International Corporation: the AMF judgment", by Prof. William Ballantyne, SOAS.

"Enforcement of judgments and dispute resolution in the Gulf and the Levant", by Nancy Turk, Fulbright and Jaworski.

"Banking laws in Bahrain: theory and practice", by Hasan Ali Radhi, former President of the Bar, Bahrain.

"Advising on doing business in Central Asia: the role of the Middle East Legal Practitioners", by Richard Shoylekov, British Gas, and Prof. William Butler, UCL.

"Corporate taxation in the Middle East: current issues", by GERALYN M. FALLON, Editor, Taxation and Investment in the Middle East, International Bureau of Fiscal Documentation.

"Commercial law in Iran: theory and practice", by Ben Browne and Barrister A.H. Naguibi, Tehran.

"Commercial law in Pakistan: theory and practice", by Martin Lau, SOAS.



(3) Conferences



*Lord Woolf inaugurating
the commercial law conference*

In June 1993, CIMEL and MELPF ran an international conference on commercial law which was attended by leading commercial law experts from the USA, Europe and the Middle East. Building on its series of international conferences on finance and banking (1988), family law (1989), and public law (1990), which resulted in highly praised books, CIMEL has convened a closed conference on "Constitutional Frameworks for Iraq" (1992, in Arabic and English) and in association with other SOAS departments and centres "Water in the Middle East: Legal, Commercial and Political Implications"

(Nov. 1992). Other conferences are planned on "the Arab-Israeli Peace Accords", and (15 -17 Dec 1994), and in Arabic, on "the Legal and Intellectual Frameworks of a New Middle East", (19 -20 Dec 1994).

(4) Publications

Books

CIMEL attaches particular importance to the dissemination of its work in the form of publications. It has accordingly transformed most of its international conferences into books which have become major references in the field.

Islamic Law and Finance (Graham and Trotman, 1988)

Islamic Family Law (Graham and Trotman, 1990)

Islam and Public Law (Graham and Trotman, 1990)

Water in the Middle East: Legal, Political and Commercial Implications (book forthcoming 1994, British Academic Press)

Commercial Law in the Middle East: the Next Decade of Law and Legal Change (book forthcoming 1994, Graham and Trotman)

Feminism and Islamic Law : Contextual Approaches (book forthcoming, 1995 Ithaca Press)

Law and Legal Policy Series

In 1994, a new series on "Law and Legal Policy" was inaugurated with a paper by Lord Avebury, the Chairman of the Parliamentary Human Rights Group. Other publications (in press) include:

Husein El-Baharna, *Legal Implications of Maritime Boundary Disputes, with special reference to the Middle East.*

Martin Lau, *Introduction to the Pakistani Legal System, with special reference to the Law of Contract.*

Souad Mokbel Wensley and Mai Yamani, *Equality before the Law: Women as Lawyers, Women as Clients* (with the Institute of Advanced Legal Studies).

Ahmad Chalabi, *Tactics and Strategy for the Rule of Law in Iraq* (in Arabic).

Lebanon, Jordan, Iran, Pakistan, Israel : an Introduction to Legal Systems and Legal Research and Practice (Collective).

(5) Expertise and Consultancy

Apart from individual expertise contributed by Centre members in the course of their professional activities, CIMEL has advised the UNHCR over the legal system in Iran. The Director and other members also contribute to briefings of diplomats, international organisations and officials and others.

Water laws is a major area of expertise which CIMEL has developed through a close cooperation with Professor J. A. Allan, an international authority on water and water resources in Asia and Africa. Work includes a study commissioned by the World Bank, an international conference on the Nile river (book to appear in 1994 at Cambridge University Press), and the aforementioned 1992 general conference on Middle East water. This has resulted in ongoing work with Middle East specialists on legal aspects of water and water management. An interdisciplinary study group at SOAS under the direction of Professor Allan has been convening various international seminars and conferences.





*Working for the rule of law in Iraq (SOAS, April 1993):
sitting Dr. Ahmad Chalabi, Dr. Muhammad Bahr Al-Ullum, Mr Jalal Talibani,
General Hasan Al-Naqib, Mr Sabah Kadhem and Dr. Latif Rashid;
standing Mr. Edward Mortimer, The Director, M.H. Bahr Al-Ullum*

(6) Work with Islamic and Middle Eastern Lawyers

Close cooperation with Arab and Middle Eastern lawyers was manifest in CIMEL being asked to host the address of the Secretary of the Arab Organization of Human Rights in September 1993 upon the release of its Annual Report and in its providing continued advice and support for the rule of law in Iraq.

With the Institut de Recherches et d'Etudes Libanais (IDREL) in Beirut, and through its unique connections with Supreme court judges across the Middle East, CIMEL hopes to publish law reports from the Middle East in a consistent

and polished form, together with a synopsis in English. The first publication is planned for Summer 1994.

(7) Special Courses and Training

CIMEL is keen to develop the practical and academic strength of the Law Department and has the capacity to set up tailor-made courses for the needs of particular countries. This includes

- (i) running special courses for e.g. judges, magistrates, advocates and other government officials.
- (ii) seconding the exchange of staff from and to the Middle Eastern and other universities and law schools for research and teaching in subjects of common interest.
- (iii) providing special consultancy and expert services.

Planned Activities

CIMEL recognises the importance of the media revolution for the development of multilingual capacities, and has concentrated its resources with a view to facilitate scholarly output in several languages. It is now equipped to typeset and print high quality material in European as well as Middle Eastern languages. With the material base in place, CIMEL envisages now a multi-year programme of development which features several major projects. These include: developing the CIMEL books and articles series, a Journal, a Middle East Law Reporter, a Yearbook of Middle East Law, further international conferences and seminars in Europe and in the Middle East, monographs on individual Middle Eastern countries, fellowships on specific projects, including the transition period in the Occupied Territories, constitutional frameworks, water law, Islamic law in Europe, collaboration with other centres, the strengthening of the Middle East Legal Practitioners' Forum, and the enhancement of the Centre profile. A long-term international project on a *Restatement of Islamic law* in Arabic and in English is being also considered.

The agreements between the PLO and Israel have opened the way for much work to be done in the legal field. The Centre has already been approached to help in this difficult task. The Chairman has been asked to assist in the drafting of constitutional documents connected with the new Palestinian self-governing authority and an approach has been made to CIMEL for future drafting of laws and training of Palestinian lawyers. The two conferences planned for Autumn 1994 will bring together Arab and Israeli legal experts and are expected to constitute major undertakings in a long-term programme of historic importance.



Funding

Although SOAS provides the base for the Centre, there is no separate funding for it or for its staff either from the School or any other source. The Centre therefore has to rely on donations from institutions or individuals. We are grateful for two major contributions from Sheikh Salah al-Hejailan and from Investcorp; and for this brochure, generous support from Dallah Albaraka. Donations are welcome from all concerned on the academic and practical side of Islamic and Middle Eastern law, whether for particular projects or to the Centre generally.



CIMEL and the Law Department

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