



Max Planck Institute for
Comparative and International
Private Law | Hamburg

AFTERNOON TALKS ON ISLAMIC LAW

Nafay Choudhury

Independent Researcher on Afghanistan, LL.B. / B.C.L. (McGill), MA (Queen's)

“Contracts as Relational Practice: Informal Business Arrangements of Taxi Drivers in Kabul, Afghanistan”

Thursday, 16 June 2016 – 4 pm

Conference Room 1, 1st floor

All employees and guests of the institute as well as other interested parties are cordially invited to the lecture.

Nadjma Yassari

About the Speaker:

Nafay Choudhury (BA McGill, MA Queen's, LLB/BCL McGill) was previously Assistant Professor of Law at the American University of Afghanistan (2012-2016), where he taught and researched in the areas of comparative law, private law, legal pluralism, and legal education. He helped to establish the country's first English-medium law program. He is also co-author of an English textbook on the law of obligations in Afghanistan. During his time in Kabul, his research focused on how legal pluralism arises in various spheres of activity, such as the operation of the judiciary as well as the contractual agreements between private parties. Presently, he is researching how madrasas in Afghanistan are connected to Islamic ideologies in the wider region of South Asia. He is also studying how the private law regime in Afghanistan is becoming a patchwork of legislation given the various uncoordinated development efforts.

About the Topic:

Just as law in Afghanistan is characterized by the vibrant points of contact between Islamic law, state-civil law, and customary law, so too is contract law characterized by a plurality of legal traditions. Contractual obligations are governed by the Civil Code of Afghanistan, which is based on the Franco-Egyptian Civil Code. However, as a transplanted law, the CCA does not command widespread authority in the contracts made between private parties. This reality is compounded by the weak sense of rule of law in the country.

This presentation is based on interviews conducted with taxi drivers concerning their contractual arrangements, particularly when purchasing and selling immovable and movable property. Taxi drivers generally come from the lower-middle class segment of society. Their behaviour evidences their minimal reliance on the formal legal framework in contractual affairs in preference of self-help remedies. This behaviour raises the significance of revisiting the concept of "relational thinking" in the context of contracts, as proposed by Macneil in the 1980s.