

Conference Announcement & Call for Papers

# Modern Law and Institutional Decay

## The Ecology of Institutional Transplants in the Muslim World

10–11 February 2020, Faculty of Law,

University of Vienna, Austria

Comparative governance has become a major field of inquiry across a number of related disciplines. This reflects a sense of urgency in a world characterised by rising political instability and dramatically improved communications. The modern state and the rational public law it is built upon are relatively recent imports into the Muslim world and their reception has proven to be difficult, antagonistic and non-linear. We want to investigate the *ecology of legal transplants*, i.e. how novel ideas about rational, bureaucratic law became enmeshed with a socio-political context based on different values, memories and material conditions.

Huntington defined institutions as “stable, valued, recurring patterns of behaviour” that acquire their strength through social practice. Transplanting ideas about law and governance is but one step in a necessarily long, idiosyncratic, and often painful process of appropriation. How this process unfolds is in turn a function of the scope, strength and resilience of existing institutions. Problems arise (1) when certain institutions, especially those connected to the modern state, do not (yet or anymore) exist; (2) where institutions have been captured by narrow interests and prove unable to adapt; and (3) where social change outgrows existing institutions.

Under these conditions, how can effective legal institutions and rule-bound administrative systems be (re-)created? This conference seeks to address this ‘missing dimension’ by investigating how public law works under conditions of weak or spotty administrative capability, looking at variations in the ability of state organs to carry out various functions. Our working hypothesis is that the challenge of modern governance, including democracy, lies less in normative divergent *concepts*, but rather their local *execution*, that is administrative capacity to effectively carry out decisions, whatever their content and however arrived at.

We define *effective governance* as the creation of political institutions, which are *simultaneously powerful, rule-based and accountable*. This conference seeks to investigate the *institutional* basis for the failure of

Muslim societies to achieve greater accountability, popular participation in political decision-making, greater productivity and fairer distribution of wealth. We wish to identify general problems of institutional adaptation to social change. Institutional rigidity, that is the inability to accommodate new actors, technological fluctuations and strategic challenges, can explain most of the currently observable instability and offers an avenue for potential redress.

We invite contributions about the growth and decline of institutions in the Muslim world throughout the modern period. We are particularly interested in the manner in which governance, regulation and service delivery are carried out by the state, often in collaboration and/or competition with traditional actors. We invite both historical and contemporary approaches; comparative studies are particularly welcome. Topics, themes and issues to be explored include, but are not confined to the following:

- **Legal reform and judicial systems**, especially social engineering through law; courts; social pressures for legal change; law as an obstacle to economic development; etc.;
- **Taxation and fiscal collection**, especially the manner in which rentier economies have undermined the creation of administrative capacity and channels for political contestation;
- **Urban planning**, especially the relationship between land tenure, public services such as water, lighting, sewage and transport;
- **Rural development**, especially the transformation of agriculture and the management of the natural habitat, including water, forestry and mining resources;
- **Labour markets**, especially the management of labour relations, skills development, remittances and migration;
- **Education**, especially the transition from a private/ecclesiastical to a predominantly state-run system, and the relative performance in terms of output (literacy, labour market, etc.)
- **Civil society**, especially how traditional institutions, such as guilds, cooperatives, etc. responded to an expanding state, including the creation of state-run mass organisations;
- **Political society**, especially the creation of modern coercive institutions, such as modern armies, police and gendarmerie forces, intelligence agencies, etc.

The conference is organised by Professor Ebrahim Afsah, Chair for Islamic Law and Ethics, Department of Public International Law, Faculty of Law, University of Vienna. Financial contributions are gratefully acknowledged from the Dean's Fund of the Faculty of Law and the Danish Damascus Foundation.

**Abstract submissions** of no more than 500 words are to be submitted by **30 November 2019** to [leonard.soldo@univie.ac.at](mailto:leonard.soldo@univie.ac.at)