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Researching Islamic Law: an Introduction

Abstract: This article by Sarah Spells from the School of Oriental and African Studies, University of London, focuses on the sources of Islamic law and provides a simple introduction to finding and researching this area, with suggestions of useful and notable resources.
Keywords: Islamic law; legal research

Introduction

Islamic law can be quite daunting for researchers and locating materials can be impossible for the uninitiated. There are many detailed research guides available which provide comprehensive descriptions of materials that cover all aspects of Islamic law. The purpose of this article is to provide a simple introduction to researching Islamic law, with suggestions of useful and notable resources.

What is Islamic law?

It will be necessary to describe the different sources of Islamic law, but this is not intended to be an extensive or detailed guide. There are many other articles and textbooks which will provide you with a better understanding of this particularly complex legal system, and they are listed in the bibliography.

Islamic law governs every aspect of a Muslim's life, clarifying every area from how to pray, to divorce and inheritance, to crime and punishment. The origins of these rules come firstly from the Qur'an and secondly from the *Sunnah*. The Qur'an is accepted by Muslims as the direct Revelation of the word of God to the Prophet Muhammad. Hence, the Quranic injunctions are to be regarded as perfect and beyond question. Alongside this, Muslims should also strive to model their behaviour on the Sunnah, or "tradition of the Prophet", that is the personal example set by the Prophet. His teachings, sayings and doings during his lifetime were recounted over the years in several corpus of individual accounts (*Hadith*) of the Prophet's sayings and doings during his lifetime. The words and actions of the Prophet are said to be the embodiment of the divine law. The term *Sharia* is used to describe this divine law.

There are other sources of law – *ijma* (consensus), *qiyas* (analogy) *aql* (intellect) and *urf* (local custom) – but I will not go into any detail here. Suffice to say, that together, the Qur'an and Sunnah constitute the primary sources of Islamic law and all other sources are secondary.

Throughout the years many scholars have studied and interpreted these primary sources to produce a variety of works known as *fiqh* referred to as Islamic jurisprudence. *Fiqh* literally means "understand" or "perception" and denotes the human interpretation of the divine law which is fallible and changeable (unlike *Sharia*). These collections of *fiqh* contain the legal rulings of scholars as they interpret and apply Sharia law in various ways. Among the Sunni Muslims, many schools of law (*madhahib*) emerged, of which four have remained dominant: the *Maliki madhhab*, the *Hanafi madhhab*, the *Shafi'i madhhab* and the *Hanbali madhhab*. These collections of texts are then interpreted by other scholars giving rise to a vast collection.

Islamic legal systems

Although **all** Muslims are subject to Islamic law, it is worth noting which countries have an Islamic or mixed legal system. There are only a few countries which are solely based on Islamic law, while others are a mixture of civil, customary, common and Jewish law (see table 1).

This information can be found at *JuriGlobe*[1] which provides a brief overview of world legal systems and the official languages which apply to each country. For all Arab states the laws are published in the official Arabic language only and it is often difficult to find English translations. Note that some understanding of Arabic may be necessary when searching for materials from particular countries.

There are a number of resources to use to find primary materials for individual countries. A good starting point would be to search the *FLAG* database.[2] This is a gateway to the holdings of foreign, international and comparative law in UK universities and national libraries. It describes the print collections of over 60 libraries in the UK. You can search for individual counties and find details of each library's holdings, including the dates and language of materials held. Contact details for each library are also provided.

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Table 1

Islamic law	• Afghanistan • Maldives Islands • Saudi Arabia	
Islamic law + Civil law	• Algeria • Comoros Islands • Egypt • Iran • Iraq • Lebanon	• Libya • Mauritania • Morocco • Palestine • Syria • Tunisia
Islamic law + Customary law	• United Arab Emirates	
Islamic law + Common law	• Bangladesh • Pakistan	• Singapore • Sudan
Islamic law + Civil law + Customary law	• Djibouti • Eritrea • Indonesia • Jordan	• Kuwait • Oman • Timor Leste
Islamic law + Common law + Civil law + Customary law	• Bahrain • Qatar	• Somalia • Yemen
Islamic law + Common law + Customary law	• Brunei • Gambia • India	• Kenya • Malaysia • Nigeria
Islamic law + Civil law + Common law + Jewish law	• Israel	

Turning to online resources, there are a number of gateways where you can find freely available legal materials for individual countries – although note that it is often difficult to find free information from Middle Eastern countries. The widely used *World Legal Information Institute (WorldLII)*[3] is a good starting point, particularly the section for Islamic countries.[4] This is a collaborative project between various Legal Information Institutes who are participants in the free access to law movement.[5] It provides access to a number of databases from jurisdictions around the world containing primary and secondary legal materials. Be aware that the strength of coverage does vary for each country so you may not find what you are looking for.

If WorldLII does not provide what you need, alternative websites include the *Islam Catalogue*[6] which covers countries with an Islamic legal system. It is a gateway to particular information for each country including basic legal documents, an overview of the legal system, laws and regulations, agreements and treaties as well as information on human rights issues.

Another useful site is *GLIN*[7] – a database of official legal texts (laws, regulations and judicial decisions etc.) from participating countries. Documents are available in their original language, although English summaries are available. Full-text access is restricted for some jurisdictions. Check the database content[8] to see the scope of coverage.

Finding primary sources

As mentioned above, Islamic law is linked to the interpretation of the Qur'an and Sunnah, so most texts will in fact be in Arabic. However, there will be a number of English translations available and they can be found at the resources below. If you wish to do a thorough research of Islamic law, you will require an understanding of Arabic.

A major source of primary sources in print will be the School of Oriental and African Studies, University of London (SOAS). The library is the national resource for the study of Asia, Africa and the Middle East. You will be able to find a variety of materials including the Qur'an and Hadith in the Middle East section. SOAS will invariably collect material in the vernacular language although there is a growing collection of English language texts. You can search the catalogue[9] using keywords such as Hadith, Sunnah (alternative spelling Sunna) and Qur'an (alternative spelling Koran).

There is also a wealth of information available online. One of the most comprehensive websites is the *Compendium of Muslim Texts*.[10] The site is maintained by

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the Muslim Student Association of the University of Southern California and contains links to multiple translations of the Qur'an[11] and various collections of Hadith.[12] In fact, it is one of the most complete compilations of Hadith available free online which is in English. There are many other sites of Hadith collections which are more exhaustive, but they are in Arabic only (see the *al-Waraq*[13] and *al-Mawsu'ah al-Shamilah*[14] sites mentioned in the next section).

Another useful gateway was created by the *Centre of Islamic and Middle Eastern Law (CIMEL)*[15] from the School of Oriental and African Studies. This is a comprehensive resource providing links to Islamic and Middle Eastern legal materials online – including links to primary sources as well as legal rulings and articles. Please be aware, however, that the site is currently undergoing reconstruction so not all the links are working at the moment. Nevertheless, this is a comprehensive site for all Islamic law materials and is a very useful research tool.

Other sites include the *Holy Qur'an Resources on the Internet*[16] which includes links to essays, articles, bibliographies and commentaries dealing with the Qur'an. The *Islam and Islamic Studies Resources* created by the University of Georgia also provide links to and commentaries on the Qur'an[17] and Hadith.[18] Both sites provide searchable translations of the texts.

For a Shiite stance, see the *Al-Islam.org* site[19] developed by the Ahlul Bayt Digital Islamic Library Project, which provides full-text resources for the Qur'an and Hadith. It provides sound clips of recitations as well as translations and commentaries. Not to be confused, the *Al-Islam.com* site[20] also provides access to Qur'an and Hadith texts, as well as sound clips of recitations, commentaries and encyclopaedias. However, this site is best searched in Arabic as it provides more information.

Finding secondary sources

As mentioned above Islamic jurisprudence has developed over time, and various schools have emerged, each with its own interpretation and application of Sharia. This has resulted in a vast collection of secondary sources which can be quite difficult to research.

SOAS holds many of these texts in print, although they will mostly be in Arabic. All of these works concerning *fiqh* are kept in the law section and you can search the library catalogue[21] for texts by Shiite and Sunni authors. However, the distinction is not always that easy and there are many other branches in Islam – it is generally accepted that the researcher should know who the author is that they need. If you do not have a particular scholar in mind, try using keywords such as Islamic law or *fiqh*, and Sunni (including the main schools – Maliki, Hanadi, Sha'fi'i and Hanbali) or Shiite. You will also be able to find *fiqh* collections about particular topics of Islamic law (such as family law, criminal law etc.) but it is usual to find authors discussing all topics within one collection.

The *Islam and Islamic Studies Resources* site[22] created by the University of Georgia also provides a number of secondary sources. You can access texts from important Sunni scholars as well as other relevant articles on Islamic law. Likewise, for a Shiite stance, the *Al-Islam.org* site[23] provides access to a number of works on Islamic jurisprudence.

You can also find a large number of Arabic and Islamic works freely available online in full text. Note that most sites will be in Arabic only. They provide access to extensive information on Arabic studies, so can be very useful to researchers with a reading knowledge of the Arabic language. For example, the site *Al-Waraq*[24] contains a number of texts on Arabic literature and humanities, while *I-Mawsu'ah al-Shamilah*[25] provides access to more than 6,600 texts on a variety of subjects. This collection of books covers not only Quranic and Hadith studies and commentaries, but Islamic doctrines, law and jurisprudence as well as Arabic language and literature, biographies and general works on history, ethics and geography.

Finding other sources

As with all research, you can find a vast amount of information from journal articles – in this case particularly the *Arab Law Quarterly*, *Journal of Islamic Studies* or the *Yearbook of Islamic and Middle Eastern Law*. You can search for journal articles in *Westlaw UK* with the *Legal Journals Index* (for articles from the UK and EU), the *Index to Legal Periodicals* (for mainly US journal articles), the *Index to Foreign Legal Periodicals* (for worldwide journal articles including those published in the vernacular language) and *HeinOnline* (for full-text access to US and international journals).

There are also a number of very useful resources specifically aimed at researching Islamic or Middle Eastern studies. These include the *Index Islamicus* which is a bibliographic database of books and journal articles about Islam or the Muslim world. It covers works which were published since 1906 in Western languages only. Another useful bibliographic database is *Middle Eastern and Central Asian Studies (MECAS)*, which provides access to a wide range of material relating to the study of the countries and peoples of the Middle East, Central Asia and North Africa. It includes recently published literature covering, among others, political and legal aspects. Further, the *Encyclopaedia of Islam* is an important resource, as it is an authoritative reference work in the field of Islamic studies and contains articles on all aspects of the Islamic world. All of these databases are available at SOAS to all library users when on site.[26]

Finally, you can also find links to other various resources on the Religion[27] and Law[28] subject guides created by SOAS librarians. They provide links to general sites relating to Islam and Islamic law. They also include details of relevant centres, organisations and other libraries that may be of interest. Likewise, the University of Exeter has created a guide to *Arabic, Islamic and Middle Eastern resources*[29] which

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provides general gateways to a variety of Islamic sources alongside information on Islam and Islamic culture.

Conclusion

There is an abundance of information available on Islamic law - particularly online. The resources I have mentioned above should provide you with a starting point to researching Islamic law. Remember that to search thoroughly this area it will be necessary to have some understanding of Arabic. When researching *fiqh* collections it will also be more beneficial if the researcher knows the author they wish to consult as there is such a vast amount available. The research guides listed in the bibliography will also be able to provide more information on which sources are useful for researching particular areas of Islamic law.

Acknowledgements

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Footnotes

[1]http://www.juriglobe.ca/
[2]http://ials.sas.ac.uk/library/flag/flag.htm
[3]http://www.worldlii.org
[4]http://www.worldlii.org/cgi-bin/gen_region.pl?region=52815
[5]http://www.worldlii.org/worldlii/declaration/)
[6]http://www.islamcatalogue.uni-leipzig.de/islawindex.html
[7]http://www.glin.gov/search.action
[8]http://www.glin.gov/databaseContentsPopup.action
[9]http://libnew.soas.ac.uk/search~S1/
[10]http://www.msawest.net/islam
[11]http://www.msawest.net/islam/quran/qmtintro.html
[12]http://www.msawest.net/islam/fundamentals/hadithsunnah/
[13]http://www.alwaraq.net/
[14]http://www.islamport.com/
[15]http://www.soas.ac.uk/cimel/materials
[16]http://www.quran.org.uk
[17]http://www.uga.edu/islam/quran.html
[18]http://www.uga.edu/islam/hadith.html
[19]http://www.al-islam.org/alpha.php
[20]http://www.al-islam.com
[21]http://libnew.soas.ac.uk/search~S1/
[22]http://www.uga.edu/islam/shariah.html#law
[23]http://www.al-islam.org/alpha.php
[24]http://www.alwaraq.net/
[25]http://www.islamport.com/
[26]More information about access to SOAS can be found at http://www.soas.ac.uk/library/using/admission/
[27]http://www.soas.ac.uk/library/subjects/religions/religions/
[28]http://www.soas.ac.uk/library/subjects/law/region/islamic/
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Biography

Sarah Spells is the Assistant Librarian for Law at the School of Oriental and African Studies, University of London. She has an LLB from Anglia Ruskin University, followed by an MSc in Information Science from City University. She has been working in academic law libraries since 2001. She previously worked at the University of Hertfordshire before joining SOAS in 2003. She is Vice-Chair of the BIALL Publications Committee and one of the Newsletter Editors.

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Alternative Dispute Resolution

Abstract: Following the enactment of the Civil Procedure Rules in 1999, potential litigants are expected to pursue alternative means to litigation for solving their disputes. In this article, Nigel Broadbent a Director at Lupton Fawcett LLP in Leeds clearly explains the various activities which fall within ADR, including mediation, family dispute resolution, arbitration, conciliation and adjudication.
Keywords: alternative dispute resolution; arbitration

Introduction

For as long as there have been disputes, there have been resolution alternatives. When states engage in disputes, the ultimate resolution mechanism is war, but just as states (generally) manage to overcome their differences without resorting to bloodshed and annexation of territory, most of the time so do corporations and individuals.

In England and Wales, there has been a concerted effort by the legal establishment to push disputants away from the court room steps. The process of stigmatising, and penalising, the frequently premature rush to court, which characterised earlier generations of litigants, began in earnest with the Civil Procedure Rules ("CPR"), which came into force in April 1999. The product of Lord Woolf's review into civil litigation rules and practices which had developed over more than a century, the stated aim of the CPR and the Pre-Action Protocols ("PAPs") which accompanied them, was to accelerate litigation procedure and reduce its cost. A more circumspect interpretation might have it that the real agenda was to reduce the cost of running the court service, by ensuring that parties were channelled down the route of negotiation and other

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