

Centre for Asian Legal Studies Newsletter, Spring 2023



Message From Shigenori Matsui, 2022-23 CALS Director

Thank you for reading our newsletter. It is my great pleasure, as the CALS director, to add a remark for the second newsletter for 2022-23. This year, we welcomed several visiting scholars from Asia, as well as two women judges from Afghanistan. CALS is very happy to welcome our visiting scholars! Some of the activities we've had this year are as follows:

- We hosted several lunch seminars
- Organized a visit to the Law Courts and Prosecutor's office visit for visiting scholars
- Participated in a conference as a group and submitted our papers for publication

As we gradually get back to normal after the pandemic, I would like to express my appreciation for your ongoing support, and look forward to improving and increasing our activities as a Centre in coming years.

We will welcome any news items you may have that can be included in this newsletter. Please send us your comments or any suggestions. We look forward to publishing the newsletter at least twice a year. It would be appreciated if you register as a subscriber to this newsletter.

Shige Matsui, Director for the Centre for Asian Legal Studies, 2022-23
The Peter A. Allard School of Law, University of British Columbia

Please visit our [Visiting Scholars Profiles](#) for more information as the page gets updated.

CALS website: <https://allard.ubc.ca/research/research-centres-and-programs/centre-asian-legal-studies>

CALS visiting scholar program: <https://allard.ubc.ca/research/research-centres-and-programs/centre-asian-legal-studies/visiting-scholar>

CALS New Visiting Scholar Profiles



Seung Hea JOUNG (judge from South Korea) arrived in February 2023 and will stay with us until February 2024.

Affiliation: I am a judge from South Korea, and worked at the Suwon District Court before moving to Vancouver. Nowadays, I am a chief judge of the Daegu Western Branch Court.

Research topic : My research topic is "A research on the Improvement of Anti-stalking Law". My research topic also includes "the conflict between the Anti-Stalking Law and the stalker's Constitutional Rights."

Any personal information: I graduated from Seoul National University College of Law and College of Humanities. I am a Bachelor of Law and Arts. I studied at Seoul National University Graduate School of Law, and am a Master of Law. My major is Criminal Law. I am married and have a family of four, a husband and two kids. I enjoy skiing and golf in Vancouver. I also like to swim in the UBC Aquatic Center with my kids. I visited Vancouver 15 years ago, and I am very happy to be here.



Freshta Masomi (judge in Afghanistan)

Zamila Sangar (judge in Afghanistan)

Together with Wahida Rahimi (Allard School of Law)

Acceptance of three Afghan judges at Allard Law: <https://allard.ubc.ca/about-us/news-and-announcements/2023/new-beginning-afghan-judges-forced-flee-taliban>

Interview with Judge Freshta Masomi

Freshta Masomi was a judge serving at the trial level of the Kabul Family Court. Judge Masomi served from August 2013 until immigrating to Canada following the Taliban takeover of Afghanistan in 2021.

She obtained an undergraduate degree in Islamic Law from the Kabul University, completed a two-year judicial training residency program in the Supreme Court of Afghanistan, and finished her Master's degree in Criminal Law and Criminology at the Azad Islamic University of Iran in Kabul. She defended her thesis on October 2021 with the topic of "Victims' Rights in Sentencing Law of Afghanistan".

In addition to her work as a judge, Judge Masomi worked as follows:

- A prosecutor for the protection of children in the Kabul West Zone attorney office
- A teaching assistant with the Independent Legal Training Centre
- A clerk/drafter for the General Criminal Division of the Supreme Court
- A member of a 16-person board that drafted Afghanistan's first law addressing protection of women against violence
- To raise awareness for the empowerment of Afghan women and their rights within the judicial system
- Conducted conferences for 1700 women at the Afghanistan Institute of Higher Education University, where she invited and encouraged participants to study of law
- Mentored 15 students on their path to the judicial system

In this interview, Judge Masomi discusses her work as a judge and shares her experiences leaving Afghanistan and moving to Canada.

CALS: Tell us about the nature of your work. How was it to be a judge in Kabul's Family Court?

Masomi: A typical case in family court was confidential and complicated family matters and problems like separation, divorce, disposition, childcare and custody etc.

The work here was rewarding, as well as challenging. The biggest challenge was the existing patriarchal society in Afghanistan, and the lack of trust in women being in the judicial system. Therefore, when people see a woman in the judge's chair deciding their case, they are not comfortable. Many people do not accept the female judge's decision. Another challenge was that family matters in Afghanistan are highly sensitive, confidential, and private and so, people prefer not to go to the court over a family issue. If they do go to court and they see a woman is deciding the case, they do feel confident and do not trust the process, creating another barrier to acceptance.

CALS: What inspired you to pursue a career as a judge?

Masomi: Equity is an issue in Afghanistan, and women are underrepresented in the judicial system. I want to advocate of women, and want to help in this process. I also want to prove to society that women can get into the judicial system and hold leadership positions.

CALS: Can you share the progress you helped to achieve as a judge? What are the things you enjoy and are proud of about your work?

Masomi: There were so many moments and achievements that I am proud of. For example, I feel proud knowing that when a woman comes to the court and sees another woman presiding over their case, that increases the trust of women in the judiciary. Women can leave the court and tell others that there's a female judge who they trusted, and who can help them resolve their cases. But I made sure to not have bias for the women; I judged cases equally. This way, not only can women who go to court be happy, but also men can be happy with the decisions because cases would be decided with equity.

Another achievement I am proud of is that in my 8 years as a judge in the primary court, none of my decisions were overturned on appeal. The appeal court never ordered a reversal or change in my decisions. During these 8 years, I am proud of rendering equitable, legal-based, technical, and practical decisions.

CALS: What you would like to share about your experience living and working in Afghanistan?

Masomi: Due to the advocacy work by women, men, and the government before the fall of the government, people were becoming more and more trusting in the judicial system during the past 20 years. Women became educated and, although not completely equal, more involved in decision-making positions in the society and government, such as judges, teachers, and doctors.

They were involved in every part of the government and the social system. I was really hopeful that the country was developing because everybody was being educated. Unfortunately, all of that has ended and now women cannot go to school and must stay at home. I felt positive about the progress when I was part of that system. But now, I am sad seeing everything go back to zero.

CALS: Would you share a little about your journey from Afghanistan to Canada? How did you feel when you left Afghanistan and arrived in Canada?

Masomi: Overall, it was a tough process. My family and I were evacuated by an organization called International Association of Women Judges, based in the US but also has many connections in Canada. We were brought from Afghanistan to Greece and then to Canada. My husband was already living in Canada, which helped expedite the case for me and my children.

When I left Afghanistan, I felt dead emotionally and mentally. I invested a lot of time in my career, to study and to become a judge. I had a lot of passion for it. But it was completely disrupted. However, I was more concerned about other women and girls who were supposed to go to school, become judges, and follow in my steps. Instead, they are now condemned to stay at home. I am very worried for their futures. I was worried about the safety of my two daughters and at the same time, for the other women who I've left behind. And while I am relieved that me and my immediate family are safe, I also think about my extended family and other women judges who are still in Afghanistan. I am in contact with them and they are not in a good situation so I worry for their safety and what will happen to them.

And though I am so happy to come to Canada, to have connections, being in contact with judges, and being active in the legal system and in Allard, I still have a strong feeling about leaving Afghanistan. I am thinking, "how can I help Afghan women?" My vision is to provide services to and be a voice for women in Afghanistan. But I worry that being in Canada might mean I cannot help that process. Keeping this in mind, I also want to be an effective and good human being within Canadian society and the broader world. But I still remember everything that I left in Afghanistan.

CALS: How has it been adjusting to settling in Vancouver? And have you noticed any big cultural or legal differences?

Masomi: Vancouver is nice. I am loving it since it is a pleasant and beautiful city. I am enjoying living here so far, except for the winter!

A big cultural or legal difference that I noticed is that women in Canada have many more legal rights than women in Afghanistan. This is a very different experience than in my home. I knew that this was the case but now that I am experiencing it first hand, I am really enjoying it. In the future, if there is a chance, I hope to work again in Afghanistan and establish a similar system so women can have equal rights in a way similar to Canada.

In terms of legal similarities and differences, the legal system in Afghanistan is a combination of Islamic law with some influence from Common law and Roman-German law. So, there is some similarities with Canada in certain aspects, terms, and concepts. However, a big difference is that in Afghanistan, legal decisions are largely religion-based that takes in religious contexts.

CALS: What motivated you to join the CALS as a visiting scholar?

Masomi: My first reason for joining the CALS is to be back in the legal system and field of law. Doing so makes me feel like I didn't leave everything behind in terms of legal experience and technical knowledge. Also, I hope to share my experiences and to learn from other CALS scholars. Above all, being part of the law school, interacting with legal academics from other parts of Asia to share experiences and learn, is a big motivating factor for me.

CALS: What are your goals or plans both as a CALS visiting scholar and elsewhere?

Masomi: I plan to conduct research in family law, similar to the area in which I worked. I want to research this topic more to learn and gain more experience. However, my subject title is not finalized so I cannot share much right now.

More broadly, my plan is to work again in the legal field, to be an effective citizen and human being in society. I understand that becoming a judge here is not an easy pathway but at least if I am taking these steps, I believe that is a big achievement.

CALS: Do you have a message that you would like to send to the CALS and wider Allard community?

Masomi: The scenes of Afghanistan that are shown by the media currently are not the actual face or future of the country. In actuality, the real face of Afghanistan and its culture can be seen in the high level of development during the past 20 years. In recent years, you can see that development in that women were involved in the judicial system, occupied leadership positions, were scholars, and were going to school. This is the real Afghanistan.

With this in mind, I am very hopeful that I can return to Afghanistan one day. I hope to go back with new knowledge and experience so I can be impactful in effecting changes in Afghanistan. But leaders from around the world and people of the international community need to put pressure on the Taliban government to let women to go back to school, to go to work, and to be an active part of society. I ask the global community to pressure on the so-called Taliban government of Afghanistan to enable women to be humans again.

Conferences and Seminars

Constitutional Crossroads in Canada and Around the World, UBC, January 12-14, 2023

January 13 3:15-4:45

PANEL IV: COMPARATIVE ASIAN CONSTITUTIONALISM

Jie Cheng (Allard School of Law, University of British Columbia)

Shigenori Matsui (Allard School of Law, University of British Columbia)

Takashi Shirouzu (Law School, Chiba University)

Ohshita Hideki (School of Law, Ritsumeikan University)

Chair: Hoi Kong (Allard School of Law, University of British Columbia)

Chair: Margot Young (Allard School of Law, University of British Columbia)



Colin P.A. Jones (Doshisha University Law School)

February 14, 2023

Autonomous Robot: How Should We Regulate It?

An increasing use of autonomous robots in factories as well as everyday life could bring revolutionary change to our society. But, shockingly, there is no sufficient legal regulations on the use of these robots right now. How should we regulate it? We can start our regulation by mandating its registration following the Japanese Family Registration System. Professor Colin P.A. Jones of the Doshisha University will explain how we can know which robots are used in households and how they are functioning in our everyday lives and how we should structure our legal regulation of robots.

Colin P.A. Jones is a professor at Doshisha Law School in Kyoto. He grew up in Calgary, but has lived for several decades in Japan. Having an LL.M. from Tohoku University and a J.D. and LL.M. from Duke Law School, Colin has worked as a lawyer in Japan working for big firms and in-house roles. He has published extensively on various aspects of the Japanese law, including co-authoring West's Japanese Legal System and Japanese Legal System in a Nutshell. He is admitted to practice in New York, Guam and the Republic of Palau.



**Takashi Shirouzu (Chiba University) with
Margot Young (Allard School of Law)**

March 14, 2023

Same-Sex Marriage in Japan—Moving Forward or Backward?

Two years have passed since the Sapporo District Court first ruled that a ban on same-sex marriage was unconstitutional.

Subsequently, Osaka and Tokyo ruled that the ban was constitutional and quasi-unconstitutional, respectively.

What impact will these rulings have on future same-sex marriage litigation? What is the position of the political branch?

We will examine these questions along with how same-sex marriage lawsuits are perceived in Japanese society.

Takashi Shirouzu, Associate Professor of Law
Chiba University Law School

Takashi Shirouzu is an Associate Professor of Law at the Chiba University Law School, as well as a Visiting Scholar at Allard School of Law, UBC. His research focuses on Constitutional Law, Comparative Constitutional Law, Equality Rights, and Remedy. His recent book, “New Development of the Interpretation of Equality Rights” was published in 2020 by SANSEIDO publishing, Tokyo, Japan.

Margot Young, Professor of Law
Allard School of Law

Margot Young is a Professor at Allard School of Law. Professor Young teaches in the areas of constitutional and social justice law, and is the current Director for the Centre of Feminist Legal Studies. Professor Young is a frequent commentator in the media on a variety.



**Prosecutor's Office and Court Visit for Visiting Scholars
February 21, 2023**

Crown Prosecutors Trevor Shaw and James Whiting provided us with a seminar on the Canadian criminal process and later gave us a tour of the Law Court.