Legal Ethics for the Legal Profession

A course for law students at Qatar University College of Law

Fall 2015

3 credit hours
Professor: Mohamed Y. Mattar
Course Description:
“A lawyer shall abide by the rules of ethics, honor, honesty and integrity in his professional and personal conduct, and shall perform all the duties imposed upon him by statute, ethics of practice of the legal profession and its traditions” [Article 50 of the Law of Qatar No 23 (2006) on the Practice of the legal profession]

Purpose:
The purpose of this course is to examine “the rules of ethics, honor, honesty and integrity” that a lawyer is expected to comply with and apply in his or her practice of law. While the focus of the course is on the “lawyer,” other members of the legal profession will also be addressed, especially prosecutors, judges, arbitrators and law professors. And while the emphasis of the course is on the Law of Qatar, international legal standards on legal ethics for the legal profession as well as comparative models and best practices from different legal systems; especially Arab jurisdictions, will also be analyzed.

Knowledge:
It is expected that the student upon completion of the course gains knowledge of the law of legal ethics and professional responsibility in Qatar and understands the rights and duties the law imposes on a lawyer, in light of the international standards and comparative models.

Skills:
The course is designed to enhance the legal skills of the students especially in contract drafting and legislative drafting. It is also expected that students would gain skills in textual interpretation of the law, comparative analysis of legal issues and an appreciation of collective and cooperative work.

Values:
The course aims at enhancing basic values among future generations of lawyers, especially observance of human rights, promoting a culture of volunteerism, social responsibility and pro bono work. The course also addresses the role of religious, ethical and moral values in influencing legal representation and the role of a lawyer in legal advocacy. The course also focuses on the role of a lawyer in providing legal aid especially to the vulnerable populations.

Course Requirements: A student is required to complete 3 projects throughout the course:

1. Drafting a commentary on a number of the 77 articles of the Law of Qatar No 23 of 2006 on practice of the legal profession.

2. Preparing a questionnaire for law firms in Qatar inquiring about their corporate social responsibility policies and pro bono legal services.

3. Collecting best practices and comparative models of provisions of laws on legal ethics and professional responsibility.
A student will also be responsible for preparing answers to the (10) exercises that will be covered during the class.

There is no exam for this course. The final grade will be based on completion of the (3) projects and preparation for the (10) exercises.

Presenting Qatar University College of Law

Based upon an evaluation of the (3) projects and (10) exercises, the two students who score the highest grade will be chosen to represent Qatar University College of Law in a panel organized by Professor Mohamed Y. Mattar at the International Legal Ethics Conferences that will take place on July 14-16 (2016) at Fordham Law School, New York. U.S.A.

Week One: Gaining Knowledge, skills and values in a course on legal ethics for the legal profession: objectives and assignments.

Instructions:

a. Each student will be assigned a number of provisions of the Law of Qatar No 23 of 2006 on the Practice of the Legal Profession. The student will be responsible for writing a commentary on these provisions.

b. Each student will be assigned a number of law firms for the purpose of arranging for a meeting and conducting interviews based upon a questionnaire inquiring into their corporate social responsibility policies and pro bono legal services.

c. Each student will be assigned a number of countries around the world for the purpose of collecting their laws on legal ethics and professional responsibility.

Exercise (1)

"Qatar University is an intellectual and scholarly community characterized by open discussion, the free exchange of ideas, respectful debate, and a commitment to rigorous inquiry."

"All members of the University – faculty, staff, and students, are expected to advance the scholarly and social values embodied by the University."

Our vision: “Qatar University shall be a model national university in the region, recognized for high-quality education and research and for being a leader of economic and social development.”

Our mission: “Qatar University is the national institution of higher education in Qatar. It provides high quality undergraduate and graduate programs that prepare competent graduates, destined to shape the future of Qatar. The university community has diverse and committed faculty who teach and conduct research, which addresses
relevant local and regional challenges, advances knowledge, and contributes actively to the needs and aspirations of society.”

As a student of Qatar University College of Law design a code of professionalism that defines the professor-student relationship in light of the vision and mission of the university.

**Week Two: International Legal Standards on Legal Ethics for the Legal Profession.**

Instruction: students will be asked to identify common international legal principles of ethics through small group discussions.

**Basic concepts:**

- Are there universal rules of legal ethics?
- Do international legal standards on legal ethics matter?
- The binding effect of international principles and guidelines.
- International Law in domestic courts.
- Are there special rules of ethics that apply to lawyers representing clients in international forums?
- Does an American law firm working in Qatar follow the American Law or the Qatar Law?
- A discussion of the ten international principles on conduct for the legal profession; independence, honesty, integrity and fairness, conflicts of interest, confidentiality/professional privacy, clients’ interest, lawyers’ undertaking, clients’ freedom, property of clients and third parties, **competence** and fees.
- A discussion of the basic principles of the role of lawyers; the Havana principles; access to lawyers and legal services, special safeguards in criminal justice matters, qualifications and training, duties and responsibilities, freedom of expression and associating professional associates of lawyers, and disciplinary proceedings.
- A discussion of the Havana Guidelines on the role of prosecutors, qualifications, selection and training, status and conditions of service freedom of expression and association, role In criminal proceedings, discretionary functions, alternatives to prosecution, relations with other government agencies or **institutions**, disciplinary proceedings and observance of the Guidelines.
- A discussion of the Milan basic principles on the independence of the judiciary, independence of the judiciary freedom of expression and association, qualifications, selection and training, conditions of service and tenure, professional **duties** and discipline, suspension and removal.
- A discussion of he IBA rules of ethics for international arbitrators; fundamental rule, acceptance of appointment, elements of bias, duty of
discipline, communications with parties, fees, duty of diligence, involvement in settlement proposals and confidentiality of deliberations.

Assigned materials:
- International Bar Association Principles on Conduct for the legal profession. Adopted on 28 May 2011
- International Bar Association Rules of Ethics for International Arbitrators 1987

Exercise (2)
What are the common principles of legal ethics that may apply to the members of the legal profession including lawyers, prosecutors, arbitrators and the judiciary?

Week Three: Arab Model Laws on the Legal Profession and Legal Aid.

Basic Concepts:
- The Gulf Corporation Council model laws.
- The Arab Model Law on legal aid.
- The Gulf Corporation council model Law on the legal profession
- The Legal Profession in Qatar, Saudi Arabia, Omar, Kuwait, United Arab Emirates, and Bahrain: A Comparative Study.
- Rules of ethics and professional responsibility in Arab jurisdictions.
- A discussion of the provisions of the Manama document on the uniform law of the legal profession in the GCC countries, introductory rules, conditions for practice of law and registration of lawyers, rights and duties of lawyers, disciplinary actions, final rules.
- A discussion of the provisions of the Arab model law on judicial aid, definition and forms of judicial aid, the scope of judicial air and judicial aid beneficiaries, general rules.

Assigned Materials:
Exercise (3):
According to article 39 of the GCC model law on the legal profession, a committee for judicial aid shall be established by a decision of the minister of justice specifying its functions, the cases in which a lawyer may be assigned and the agency responsible for paying the lawyering fees. In the meantime, a court deciding a criminal matter may assign a lawyer to defend the accused. The assigned lawyer may not refuse the assignment except for a justified reason accepted by the court. The assigned lawyer, upon completion of his work, may request from the court to decide his fees.

Discuss the concept of a “judicial aid” in the laws of Qatar, Saudi Arabia, Kuwait, Bahrain, Oman, and the United Arab Emirates.

**Week Four: The Law of Qatar on Legal Profession No 23 (2006): An Analysis.**

Basic Concepts:
Analysis of the provisions of the Law no 23 (2006) on practice of legal profession.

- Practice of the Legal Profession.
  Chapter One (1-9)
- Lawyers Admission Committee. Competencies Thereof.
  Chapter Two (10-19)
- Lawyers Under Training
  Chapter Three (20-24)
- Procedures of Registration in Lawyers’ Roll
  Chapter Four (25-30)
- Lawyers’ Rights
  Chapter Five (31-44)
- Lawyers’ Duties
  Chapter Six (45-60)
- Legal Aid
  Chapter Seven (61-64)
- Disciplinary Measures
  Chapter Eight (65-76)
- Penalties
  Chapter Nine (77-77)

Project 1
Write a commentary on each of the 77 provisions of the Law of Qatar No 23/2006 on practice the legal profession. The commentary should include the following:

- A title for every provision
- An explanatory note
- Reference to international standards
- Cross references to comparative models
- Illustrations and case studies.

**Week Five: Contract Drafting and negotiations : Elements of an agreement defining the client-lawyer relationship.**

Instructor: A visiting attorney from the law firm community in Qatar.

- Students will play the role of the client and the law firm in negotiating the terms of the lawyer's conflict.

**Basic Concepts:**


  “A relationship of client and lawyer arises when:

  1. A person manifests to a lawyer the person's intent that the lawyer provide legal services for the person and either:
     a. The lawyer manifests to the person consent to do so; or
     b. The lawyer fails to manifest lack of consent to do so, and the lawyer knows or reasonably should know that the person reasonably relies on the lawyer to provide the services, or
  2. A tribunal with power to do so appoints the lawyer to provide the services.

- Elements of a contract defining the client-lawyer relationship:
  o Identifying the client and the lawyer in the client-lawyer relationship
  o Determining the scope of legal service, a scope of representation and nature of the work
  o Responsibilities of the client and the lawyer
  o Fee arrangement, filing fee, payment of costs and disbursements
  o Confidentiality agreement
  o Professional liability insurance
  o Assignment and delegation
  o Withdraw, cancellation and termination
  o Applicable laws
  o Court jurisdiction or arbitration
  o Prior agreements
  o Modification
Exercise (4):

Draft a client-lawyer contract reflecting the Law of Qatar No 23 (2006) on Practice of the Legal Profession, especially
- Articles 36-43
  (The lawyer’s fee arrangement)
- Articles 51, 56, 57
  (Confidentiality)
- Articles 31-44
  (Lawyers’ Rights)
- Articles 45-60
  (Lawyers’ Duties)

Week Six: Religion- Morality- Ethics and Values: Legal Ethics in Islamic Law

Basic Concepts:
- Do religious duties extend to legal work?
- Integrating religious values in legal practice.
- Same sex marriage, abortion, interest-based transactions (Riba). Is there a conflict between religious beliefs and legal ethics?
- **Quranic** injunctions not to suppress testimony because it may harm one’s own interest: 2:283, 4:135, 5:8, 5:106.

Assigned Materials:

Exercise (5):

According to article 63 of the Law of Qatar No 23 (2006) on practice of the legal profession:

“The appointed lawyer shall undertake the assigned work, and shall not withdraw from a case except for reasons to be accepted by the entity that appointed him. Should the lawyer refuse to provide legal aid without an acceptable reason or commits any default while performing his duties, such lawyer shall be subjected to disciplinary measures”
Can a lawyer refuse a court assignment to provide legal aid on religious grounds?

Consider the following two rulings:

A. **Fetwa** on working as a lawyer

Allah says “But if the debtor is of poor understanding, or weak, or is unable to dictate for himself, then let his guardian dictate in justice”

Acting on behalf of weak person in order to ensure that he gets what is rightfully his or to ward off wrongdoing from him is a good thing. But if it is other than that, i.e. helping a person who is in the wrong or defending the wrongdoing or using false evidence, and the deputy or representative knows that the case is basically wrong, such as representing a person with regard to something haram such as riba, then it is not permissible. [Shaykh Saalih al-Fawzaan]

B. According to the U.S. Model Code of Professional Responsibility (1969)

“When a lawyer is appointed by a court or requested by a bar association to undertake representation of a person unable to obtain counsel, whether for financial or other reasons, he should not seek to be excused from undertaking the representation except for compelling reasons. Compelling reasons do not include such factors as the repugnance of the subject matter of the proceedings, the identity or position of a person involved in the case, the belief of the lawyer that the defendant in a criminal proceeding is guilty, or the belief of the lawyer regarding the merit of the civil case.”

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**Week Seven:** Legal Aid: The role of the lawyers in providing legal aid to the vulnerable population.

**Basic Concepts:**

- 14 Principles and 18 Guidelines in providing legal aid.
- A broad definition of legal aid to include legal representation, legal information, legal education, legal advocacy, legal drafting, and legal advice.
- Exemption from litigation cost as a form of legal aid.
- Expanding the concept of a “legal aid provider” to include legal practitioners, non-governmental organizations and law clinics.
- Encouraging lawyers to participate in legal aid, especially representing legal aid beneficiaries in courts.
- Defining the “vulnerable groups” in Qatar.
- Special measures in providing legal aid for children.
• Special measures in providing legal aid for women.
• Prohibition against non-lawyers providing legal services in the Law of Qatar No 23 (2006) on Practice of the Legal Profession.
• Prohibition against advertisement in the Law of Qatar No 23 (2006) on Practice of the Legal Profession.

Assigned Materials:
• The United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems.
• The United Nations Model Law on Legal Aid.

Exercise (6):
Drafting a Code of Conduct for legal aid providers, reconciling the international principles and guidelines with the traditional rules stipulated in the Law of Qatar No 23 (2006) on practice of the legal profession. In particular:

Article 46: "It shall not be permitted for a lawyer to hire at his office any person to practice law other than those enrolled in the practicing layers’ roll…subject to the provisions of the foregoing paragraph, the lawyer may hire in his office persons with legal expertise and non-Qatari lawyers who are admitted to practice law in their respective countries."

Article 47: “Upon practicing his profession, the lawyer shall not advertise himself in any means of advertisement…"

Week Eight: Corporate Social Responsibility and Pro Bono Legal Work: Creating a culture of volunteerism among lawyers.
Instructor: A visiting attorney from the law firms community in Qatar.

Basic Concepts:
• The ten principles of the UN Global Compact, and the corporate responsibility to observe human rights, international recognized labor rights, environment standards and anti-corruption measures.
• The three pillars of the UN Special Representative, John Ruggie, on business and human rights, including the state duty to “protect” against human rights abuses by third parties. Including businesses, the corporate responsibility to “respect” human rights, and greater access by victims to affective “remedy.”
• Pro bono legal services as a pillar of corporate social responsibility.
• Comparative models of pro bono legal work in the laws of legal ethics and professional responsibility.

Assigned Materials:
• The Ten Principles of the UN Global Compact on business and human rights.
• UN “Protect, Respect and Remedy” framework and guiding principles.

Exercise (7):

According to the American Bar Association Model Rules of Professional Conduct, Rule 6.1 entitled “Voluntary Pro Bono Public Service”

“Every lawyer has a professional responsibility to provide a legal service to those unable to pay. A lawyer should aspire to render at least (50) hours of pro bono public legal services per year. In fulfilling this responsibility, the lawyer should:

a. Provide a substantial majority of the 50 hours of legal services without fee or expectation of fee to:
   i. Persons of limited means or
   ii. Charitable, religious, civic, community, governmental and educational organizations in matters that are designed primarily to address the needs of persons of limited means and

b. Provide any additional services through:
   i. Delivery of legal services at no free or substantially reduced fee to individuals, groups, or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization’s economic resources or would be otherwise inappropriate
   ii. Delivery of legal services at a substantially reduced fee to persons of limited means or
   iii. Participation in activities for improving the law, the legal system or the legal profession

In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.

To what extent do these rules on voluntary Pro Bono public service may apply to the legal profession in Qatar?

Project 2:

According to Baker & McKenzie policy of global corporate social responsibility

“Helping the communities where we operate is an integral part of our work. At Baker & McKenzie, we leverage our talent, geographic reach and resources to make a positive and lasting impact on many of today's social and economic challenges. Through our corporate social responsibility Program, we inspire firm colleagues to make a difference, and collaborate with clients who share the same commitment to social justice.

Our Global Corporate Responsibility Program is composed of three pillars:
• Pro bono and community service, in which we advance the fundamental rights of and opportunities for persons in need.
• Diversity and inclusion, in which we promote respect for and appreciation of different cultures and cultivate a diverse and inclusive workplace.
• Sustainability, in which we reduce, reuse and recycle the energy and natural resources necessary for our business, and collaborate with clients on environmental projects.

We don’t just support our communities; we invest in them.”

Prepare a questionnaire for Law Firms in Qatar asking them about their policy on corporate social responsibility and pro bono legal services and whether they would be willing to join an associate of Pro Bono lawyers in Qatar.

Week Nine: Legal Advocacy: The role of lawyers in combating corruption.

Basic Concepts:
• A discussion of the UN convention against corruption. In particular Article 11 measures relating to the judiciary and prosecution services:
  1. “Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each state party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary.”
  2. “Measures to the same effect as those taken pursuant to paragraph 1 of this article may be introduced and applied within the prosecution service in those state parties where it does not form part of the judiciary but enjoys independence similar to that of the judicial service.”

Assigned Materials:
• IBA. OGCD. UNODC. Anti-Corruption strategy for the legal profession. April 2010.

Exercise (8): According to the International Bar Association Anti-Corruption Guidance for Bar Associations: Creating, Developing and Promoting Anti-Corruption Initiatives for the Legal Profession:
• Article 5: The central role of education
  “Educating current and future legal professionals about the risk of corruption, and the policy and legislative framework to combat corruption, as well as the
preventive measures that they can put in place, must be the heart of the anti-corruption strategy of each bar association.”

- Article 6: Areas of focus for education
  “Bar associations may consider focusing their education programs on the following areas: a. educating law students by promoting educational efforts and initiative in law schools.”

Design a curriculum on anti-corruption initiatives for the legal profession that may be included in a law college educational curriculum.

**Week Ten: Ethical Rules in Representing Victims of Human Trafficking: A case study.**

Instruction: The duties of a lawyer in representing a victim of trafficking will be explained through a moot-court exercise.

**Basic Concepts:**
- Adopting special measures in providing legal aid to victims of crime, including the crime of human trafficking.
- Lawyers providing legal information to victims of human trafficking including their legal rights during the criminal justice process.
- Lawyers referring victims of human trafficking to other professionals who provide them with assistance and care to meet their medical, psychological, social and other needs.
- Lawyers engaging non-governmental organizations that provide victim services.

**Assigned Materials:**

**Exercise (9):**
Discuss the duties of lawyers representing a victim of trafficking in accordance with the The Law of Qatar No 15 (2011) combating human trafficking. In particular:
- Article 6: “The competent authorities shall ensure the provision of the following rights for the victims:
  1. Maintaining their personal dignity and identity
  2. Giving them the opportunity to state their position and being recognized
  3. Obtaining advice with regard to their rights and enlightening them with the followed legal and administrative procedures
4. Remaining in the state’s territory until the conclusion of investigation and trial
5. Obtaining legal aid including counseling of attorney
6. Obtaining an appropriate compensation for damages suffered
7. Obtaining the necessary security protection.”

- Article 7: “The competent authorities shall provide appropriate places for the purpose of harboring victims in a manner that allows them to receive their relatives, attorneys and representatives of the competent authority…”
- Article 8: “The competent authorities shall be committed to keep confidential any information obtained in connection with crimes provided in their law, and shall not disclose such information except to the extent required to enforce the provisions of this law.”

Week Eleven: Legislative Drafting 100 Best Practices in Legal Ethics Law.

Project (3):
The following are illustrations of provisions of law on legal ethics and professional responsibility from different legal systems.

It is expected that you collect 100 provisions that present best practices in the area of legal ethics.

Instructor: An English Language Instructor will present to the class the Basic English terminology in the area of legal ethics and professional responsibility.

- Presenting litigation is an integral part of an advocate’s legal services; therefore an advocate shall eliminate any obstacles to an amicable settlement [Article 7. Code of Professional Ethics of Advocates of Russia, 2003]
- A lawyer shall not be confined by the recommendations of his client except to the extent they are consistent with the conscience and the interest of the client. [Article 3. The Law No 8 (1970) on the legal profession of Lebanon]
- A lawyer may not disclose a secret he was entrusted to keep, even after the expiration of his power of attorney, except to defend his principal or to respond to any inquiry by the authorities. [The Gulf Corporation Council Model Law regarding the practice of law, Article 33 (2002)]
- A fee changed by a lawyer shall be fully disclosed to the client, shall be fair and reasonable and shall comply with the laws and professional rules to which the lawyer is subject. [EU Code of Conduct for European Lawyers (2006)]
- A lawyer or a law firm shall not share legal fees with a non-lawyer. [Rules of Professional Conduct of India (2013)]
- A lawyer must refrain from defaming his client’s adversary or mentioning private matters that may adversely impact him or his honor or dignity, expect for the
purpose of defending his client. [The Law of Jordan regarding the lawyering syndicate. [Article 58 (1966)]

- A lawyer must provide legal aid to citizens and others unable to bear the costs of such legal service. [Advocate Law of Egypt No 17 of 1983]
- A lawyer should participate in activities for improving the law and the legal system or the legal profession. [ABA Model Rule 6.1 (b) (3)]
- A lawyer is entitled to inform the public about his or her services provided that the information is accurate and not misleading, and respectful of the obligation of confidentiality and other core values of the profession. [Rule 2.6.1 Charter of Core Principles of the European legal profession and Code of Conduct for European Lawyers (2013)]
- A victim of trafficking shall have the right to legal assistance, in particular the right to counsel in the investigation and trial phases, if the victim has not chosen a lawyer, the public prosecutor or the Court, whichever the case, may assign the victim a lawyer in accordance with the rules prescribed in the Criminal Procedure Code regarding assigning a lawyer to the accused. [Article 23(e). The Law of Egypt No 64 of 2010 regarding Combating Human Trafficking]
- Mechanisms and procedures are established to ensure close cooperation and appropriate referral systems between legal aid providers and other professions (i.e. health, social and child welfare providers) to obtain a comprehensive understanding of the victim, as well as an assessment of his or her legal, psychological, social, emotional, physical and cognitive situation and needs. [Guideline 7 Legal aid for victims, paragraph 48(g). United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (2013)]

**Week Twelve:** A Discussion of the Explanatory Notes to the Law of Qatar No 23 (2006) on Practice of the Legal Profession.

**Week Thirteen:** Results of the Project on Policies regarding Corporate Social Responsibility Policies and Pro Bono Legal Services of Law Firm in Qatar.

**Week Fourteen:** Review: Learning lessons from a course on legal ethics for the legal profession: Reflection and Evaluation.

Instruction: Students from the course on legal ethics for the legal profession will present the results of their projects to the Qatar University College of Law community.

Exercise (6): Make a list of three issues/ideas/concepts/values etc ..that you learned from this course and you would like to share with your classmates.