Rule of Law Collaborative

U.S. DEPARTMENT OF STATE (INL)

Understanding Islamic Law: A JUSTRAC Special Rule of Law Topics Course

November 3-4, 2016

Course Objectives

Islamic law is one of the longest enduring and most widely practiced systems of law in the world. At the same time, however, it is one of the most maligned and misunderstood. This course will offer practitioners a firm grounding in the principles, concepts, and terminology of Islamic law, as well as its role in the contemporary era. Through discussions of both practice and theory, as well as interactive exercises, participants will gain practical insights into the sources and constructs of this religious-based legal system, including the substantive difference between Shari’ah and jurisprudence, analysis of the Qur’an, the Tradition of the Prophet Muhammad, the schools of law, differences between Shi’i and Sunni Islamic law, the historical demise and the modern resurgence of Islamic law, and Islamic political movements, i.e., Islamism. Participants will also gain an in-depth understanding of selected aspects of Islamic constitutionalism, Islamic criminal law, and not only how classical and contemporary Islamic law comports with international human rights law, but also how Islamic law can be misapplied and misunderstood. This course will use real-world examples and interactive exercises throughout, in order to give participants a practical understanding of these concepts as they apply today.

Location
FHI 360
Vista Room, 8th floor
1825 Connecticut Avenue NW
Washington, DC 20009

Nearest Metro: Dupont Circle

Contact Information
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Day 1: Thursday, November 3, 2016

8:30AM-9:00AM  Registration and Light Refreshments

9:00AM-9:15AM  Welcoming Remarks, Overview of JUSTRAC and the Special Topics Course

An overview of the JUSTRAC Program, as well as the Rule of Law Collaborative. Discussion of takeaways from the course. Participants introduce themselves.

9:15AM-10:30AM  SESSION I: THE RISE OF ISLAM AND THE RATIONALE OF ISLAMIC LAW (c. 610-661 CE)

This session will ground participants in the historical context of Islamic law. The session will offer participants insight into the rise of Islam, beginning with the ministry of the Prophet Muhammad, the advent of the Qur’an and the establishment of the Muslim polity (ummali) within Arabia, and the challenges of governance beyond Arabia and after the Prophet.

*Suggested reading/references:
Khan, Hamid. PRACTITIONER’S GUIDE TO ISLAMIC LAW (International Network to Promote the Rule of Law, 2015).

10:30AM-10:45AM  Break

10:45AM-12:00PM  SESSION II: ISLAMIC LEGAL THEORY EXPOUNDED: THE USUL AL-FIQH

This session will examine the step-by-step approach to legal interpretation under Islamic law, including sources, doctrines, strengths and pitfalls. In particular, the session will cover the evolution of different approaches to interpretation of Islamic law, the body of Prophetic Tradition, and the emergence of a rule of law-based paradigm for Islamic governance. Participants will also learn about the approaches scholars took to promote the overall effectiveness of this legal system including the doctrines of istibsan, istislah, and the maqasid al sharia.

*Suggested reading/references:
Auda, Jasser, MAQASID AL-SHARIAH: A BEGINNER'S GUIDE (International Institute of Islamic Thought, 2008)

*Suggested reading and reference materials are optional.


12:00PM-1:15PM  **Lunch**


This session will examine the *ulama*, a body of dedicated scholars and jurists that form the foundation of the Islamic legal system. The session will also examine the rise of the office and authority of the *caliphate* and the madrasa, as well as the various schools of law. Particular attention will also be devoted to examining separation of powers theory under Islamic law and how the concept of the rule of law is envisioned in Islamic political theory.

*Suggested reading/references:


2:30PM-2:45PM  **Break**

2:45PM-4:00PM  **SESSION IV: SHI'I & SUNNI ISLAMIC LAW**

This session will delve into the sectarian divide in Islam between the Sunni and Shi'i, as well as examine how Islamic law is distinctly different when examined through the Sunni and Shi'i paradigms.

*Suggested reading/references:


4:00PM-5:00PM  **EXERCISE: A FATWA, ANALOGIES AND RELIGIOUS GUESSWORK**

This exercise aims to challenge participants in the art of issuing religious opinions on various subject matters, from ritual functions, to the mundane, to one of the most challenging issues in classical and contemporary Islam today: “who constitutes a believer?”

*Suggested reading and reference materials are optional.*
Day 2: Friday, November 4, 2016

8:30AM-9:00AM  Registration and Light Refreshments

9:00AM-9:05AM  Overview to Day 2

9:05AM-10:25AM  SESSION V: THE DECLINE AND RESURGENCE UNDER POLITICAL ISLAM (c. 1798-2016 CE)

Many expected that the Islamic legal system would end up in the dustbin of legal history, but predictions of Islamic law’s early demise were premature. This session will examine how Islamic laws came under reform and colonial subversion. It will also explore how widely Islamic revivalist and Islamist movements have attempted to revive Islamic law less than a century after its predicted demise.

*Suggested reading/references:


Hamid, Shadi et al., _Islamism, Jihadism, and Salafism, A Primer_, The Brookings Institution.

10:25AM-10:40AM  Break

10:40AM-12:15PM  SESSION VI: ISLAMIC FAMILY LAW

This session is dedicated to a brief understanding of the most widely adopted form of Islamic law: family law. The session will examine the role of women, family, and examples of attempts to achieve reform of various family and personal status laws in a variety of different states.

*Suggested reading/references:


*Suggested reading and reference materials are optional.
12:15PM-1:15PM Lunch & Exercise on Advocacy of Women’s Rights Under Islamic Law

Perhaps no particular area is of greatest concern to practitioners and human rights activists than the issue of women’s rights. This session will examine the advantages and challenges to advancing women’s rights platforms under Islamic law.

*Suggested reading/references:


1:15PM-2:30PM SESSION VII: ISLAMIC CONSTITUTIONALISM AND INTERNATIONAL LAW

This session will examine various contemporary Islamic constitutional systems and their legal and governing implications. The session will also highlight the alternative manifestation of Islamic constitutionalism found in the Islamic Republic of Iran and its conformity under Shi’i Islamic law.

*Suggested reading/references:


2:30PM-2:45PM Break

2:45PM-3:30PM SESSION VIII: ISLAMIC CRIMINAL LAW

This session will offer participants an in-depth understanding of the classical offenses, defenses, and evidentiary issues concerning Islamic criminal law, as well as the challenges posed by its imposition and application in the contemporary period.

*Suggested reading/references:


*Suggested reading and reference materials are optional.
3:30PM-4:45PM  SESSION X: JIHAD, TAKFIRISM AND TERRORISM

The final session will delve into contemporary manifestations and implications of classical Islamic law’s approach to war, including the practice of *takfirism*, as well as ideological points of view from various jihadist groups and their purported grounding within Islamic law.

*Suggested reading/references:


4:45PM-5:00PM  Wrap-up and Feedback

*Suggested reading and reference materials are optional.*