



JUSTRAC

JUSTICE SECTOR TRAINING, RESEARCH
& COORDINATION PROGRAM

Understanding Islamic Law

A Justice Sector Training, Research and Coordination Training Course
Convened by the Rule of Law Collaborative at the University of South Carolina

September 20-21, 2017

PROGRAM IS SUBJECT TO CHANGE

Course Objectives

Islamic law is one of the longest enduring and most widely practiced systems of law in the world. It is, however, one of the most maligned and misunderstood. This course will offer participants a firm grounding in the principles, concepts, and terminology of Islamic law as well as an introduction to its history and its role in the contemporary era. Through discussion and 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 various rational constructs devised by jurists and eminent legal scholars, the schools of law, differences between Shi'i and Sunni Islamic law, the historical demise and the modern resurgence of Islamic law, and Islamism. Participants will also gain an in-depth understanding of selected aspects of classical and contemporary Islamic constitutionalism, Islamic criminal law, and Islamic finance law as well as how such substantive laws can be misapplied and misunderstood at every session.

Location

American Bar Association Rule of Law Initiative
1050 Connecticut Avenue, NW, Suite 570
Washington DC 20036, USA

Nearest Metro: Farragut North

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UNIVERSITY OF
SOUTH CAROLINA
Rule of Law Collaborative



Day 1: Wednesday, September 20, 2017

- 8:30AM-9:00AM** **Registration and Light Refreshments**
- 9:00AM-9:15AM** **Welcoming Remarks, Overview of JUSTRAC and of the 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**
This 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 (*ummah*) within Arabia and the challenges of governance beyond Arabia and after the Prophet.

***Suggested reading/references:**
Aslan, Reza. NO GOD BUT GOD: THE ORIGINS, EVOLUTION, AND FUTURE OF ISLAM. (New York: Random House, 2006).

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**
Legal jurisprudence is a product of a legal theory. This session will examine the step-by-step approach to legal interpretation under Islamic law, including sources, doctrines, strengths and pitfalls. Particular attention will be paid to the evolution of rationalist and traditionalist approaches to Islamic law and the crystallization of the body of Prophetic Tradition as well as the emergence of a rule of law-based paradigm to Islamic governance. Participants will also learn about the approaches scholars took to promote the overall effectiveness of this legal system.

Brown, Jonathan. HADITH: MUHAMMAD'S LEGACY IN THE MEDIEVAL AND MODERN WORLD. (Oxford: Oneworld, 2009).

Wael B. Hallaq, A HISTORY OF ISLAMIC LEGAL THEORIES: AN INTRODUCTION TO SUNNI USUL AL-FIQH (Cambridge: Cambridge University Press, 1999).
- 12:00PM-1:15PM** **Lunch**
- 1:15PM-2:30PM** **SESSION III: THE ULAMA, MADRASA, THE CALIPHATE & THE RULE OF LAW UNDER ISLAMIC LAW**
The foundation of the Islamic legal system is a body of dedicated scholars and jurists known as the *ulama*. This session will examine the *ulama* as well as the rise of the office and authority of the *caliphate* and the *madrassa*, and the

various schools of law and their juridical differences. 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 by Islamic political theory.

***Suggested reading/references:**

Black, Antony, *THE HISTORY OF ISLAMIC POLITICAL THOUGHT: FROM THE PROPHET TO THE PRESENT*. (New York: Routledge, 2001).

Hallaq, Wael B., *THE IMPOSSIBLE STATE: ISLAM, POLITICS, AND MODERNITY'S MORAL PREDICAMENT*. (New York: Columbia University Press, 2012).

Muhammad Qasim Zaman, *THE ULAMA IN CONTEMPORARY ISLAM: CUSTODIANS OF CHANGE* (Princeton, NJ: Princeton University Press, 2002).

2:30PM-2:45PM

Break

2:45PM-4:00PM

SESSION IV: SHI'I & SUNNI ISLAMIC LAW

Perhaps no subject has garnered more recent attention than the purported schism in Islam regarding the differences between the Sunni and Shi'i. This session will not only delve into this significant sectarian divide in Islam, but also examine how Islamic law is distinctly different when examined through the Sunni and Shi'i paradigms of Islamic law.

***Suggested reading/references:**

Aslan, Reza. *NO GOD BUT GOD: THE ORIGINS, EVOLUTION, AND FUTURE OF ISLAM*. (New York: Random House, 2006).

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 possibly mundane to one of the most challenging issues in classical and contemporary Islam today, "who constitutes a believer?"

Day 2: Thursday, September 21, 2017

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

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

9:05AM-10:25AM SESSION V: COLONIALISM, ISLAMIC FUNDAMENTALISM & POLITICAL ISLAM

Many expected that, like other religious legal systems, the Islamic legal system would end up in the dustbin of legal history, especially with the erosion of Islamic empires under the weight of reforms, the European colonial intervention, and the final demise of the caliphate. However, 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:**

Wael Hallaq, *SHARI'A: THEORY, PRACTICE, TRANSFORMATIONS* (1st Ed. 2009)

10:25AM-10:40AM Break

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

The afternoon session is dedicated to a brief understanding of the most widely adopted form of Islamic law within nation states. Attention will be paid to the role of women, family, and attempts to achieve reform of various family and personal status laws from a variety of different states.

***Suggested reading/references:**

Bakhtiar, Laleh, and Kevin Reinhart. *ENCYCLOPEDIA OF ISLAMIC LAW: A COMPENDIUM OF THE MAJOR SCHOOLS*. (Chicago: Kazi Publications, 1996).

Kecia Ali, "Marriage in Islamic Jurisprudence: A Survey of Doctrines," in *THE ISLAMIC MARRIAGE CONTRACT, CASE STUDIES IN ISLAMIC FAMILY LAW*, ed. Asifa Quraishi and Frank Vogel (Islamic Legal Studies Program, Harvard Law School, 2008).

Khan, Hamid, *Special Report: "Islamic Law, Customary Law and Afghan Informal Justice,"* United States Institute of Peace, March 2015

12:15PM-1:15PM Lunch & Exercise on the 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 platform under Islamic law.

1:15PM-2:30PM

SESSION VII: ISLAMIC CONSTITUTIONALISM

This session is devoted to examining the various forms of Islamic constitutional systems within the contemporary period and examining the legal and governing implications of such provisions. Particular attention will also be paid to the alternative manifestation of Islamic constitutionalism found in the Islamic Republic of Iran and its conformity under Shii Islamic law.

2:30PM-2:45PM

Break

2:45PM-3:30PM

SESSION VIII: ISLAMIC CRIMINAL LAW

Few areas of substantive Islamic law capture the attention of the media, detractors, and politicians of all stripes more than 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:**

Kadri, Sadakat. HEAVEN ON EARTH: A JOURNEY THROUGH SHARI'A LAW FROM THE DESERTS OF ANCIENT ARABIA TO THE STREETS OF THE MODERN MUSLIM WORLD. (New York: Farrar, Straus & Giroux, 2012).

Peters, Rudolph. CRIMES AND PUNISHMENT IN ISLAMIC LAW: THEORY AND PRACTICE FROM THE SIXTEENTH TO THE TWENTY-FIRST CENTURY (Cambridge: Cambridge University Press, 2005).

3:30PM-4:45PM

SESSION X: AN INTRODUCTION TO ISLAMIC FINANCE LAW

This final session will offer participants a basic understanding of the principles of Islamic finance and offer insights into the structuring of *shari'a*-compliant transactions and products. Specific focus will delve into matters of risk and interest within Islamic jurisprudence.

***Suggested reading/references:**

Mahmoud A. El-Gamal, ISLAMIC FINANCE: LAW, ECONOMICS, AND PRACTICE (Cambridge: Cambridge University Press, 2008)

4:45PM-5:00PM

Wrap-up and Feedback