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

Contact Information
Contact: Hamid M. Khan
Email: rolec@sc.edu
Phone: 803-777-9364/803-777-937
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:
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.

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 UALMA, 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 madrasa, and the

*Suggested reading and reference materials are optional.
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:


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:


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?”

*Suggested reading and reference materials are optional.
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:


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.

*Suggested reading and reference materials are optional.
**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 Shi'i 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:


**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**

*Suggested reading and reference materials are optional.*