



JUSTRAC

JUSTICE SECTOR TRAINING, RESEARCH
& COORDINATION PROGRAM

Understanding Islamic Law

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

October 24-25, 2018

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 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 differences between Shari'ah and jurisprudence as well as analyze the Qur'an, the Tradition of the Prophet Muhammad, the various rational constructs devised by jurists and eminent legal scholars. This course will also cover the different 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 legal matters alongside the opportunity to hear from interagency practitioners on best practices in implementing rule of law programs in Islamic Law Countries. Panel discussions on programming will feature practical case studies and considerations for program officers before and during program implementation

Location

United States Institute of Peace
2301 Constitution Avenue, NW
Washington, D.C. 20036 USA

Nearest Metro: Foggy Bottom/GWU

Contact Information

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Day I: Wednesday, October 24, 2018

8:30AM-9:00AM **Registration**

9:00AM-9:15AM **Welcoming Remarks, Overview of JUSTRAC & the Course**

Paul Hughes, *Interim Vice President, Applied Conflict Transformation Center; Special Advisor and Director, Overseas Safety and Security, United States Institute of Peace*

Hamid M. Khan, *Deputy Director, The Rule of Law Collaborative, University of South Carolina, Lecturer in Islamic Law, The University of Michigan Law School & Non-Resident Senior Fellow, The King Faisal Center for Research and Islamic Studies*

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-10:15AM **SESSION I: THE RISE OF ISLAM & THE RATIONALE OF ISLAMIC LAW**

Hamid M. Khan, *Deputy Director, The Rule of Law Collaborative, University of South Carolina*

This session will offer participants insight into the rise of Islam beginning with the ministry of the Prophet Muhammad, the revelation of the Qur'an, the establishment of the Muslim polity (*ummah*) within Arabia, and the challenges of governance beyond and after the Prophet.

Suggested Reading:*

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).

10:15AM-10:45AM **Networking Break**

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

Hamid M. Khan, *Deputy Director, The Rule of Law Collaborative, University of South Carolina*

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 its sources and doctrines as well as current legal interpretation principle 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. Participants will also learn about the approaches scholars took to promote the overall effectiveness of this legal system.

Suggested Reading:*

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, THE MADRASA, THE CALIPHATE & THE RULE OF LAW UNDER ISLAMIC LAW

Hamid M. Khan, *Deputy Director, The Rule of Law Collaborative, University of South Carolina*

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*, 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 (*siyasa al shariyya*) and how the concept of the rule of law is envisioned by classical Islamic political theory.

Suggested Reading:*

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-3:45PM EXERCISE: FATWAS, ANALOGIES & RELIGIOUS OPINION-MAKING

This exercise will 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: “what constitutes Islamic law?”

3:45PM-5:00PM SESSION IV: SHI’I & SUNNI ISLAMIC LAW

Hamid M. Khan, *Deputy Director, The Rule of Law Collaborative, University of South Carolina*

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 the 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:*

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

Day II: Thursday, October 25, 2018

8:30AM-9:00AM **Registration**

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

9:05AM-10:20AM **SESSION V: ISLAMIC FAMILY LAW & INTERNATIONAL HUMAN RIGHTS**

Moderator: **Hamid M. Khan**, *Deputy Director, The Rule of Law Collaborative, University of South Carolina*

Palwasha L. Kakar, *Senior Program Officer, Religion and Inclusive Societies, U.S. Institute of Peace*

This session will look at two interrelated topics: Islamic family law—the most widely adopted form of Islamic law—and Islamic law’s relationship with international human rights norms. As individuals who manage and implement rule of law programs in Islamic countries, we contend with these issues in the program’s operating environment and need to understand how U.S. policy relating to these issues might affect the viability of our programs. Panelists will look at the role of women and family, and attempts to achieve reform of various family and personal status laws as well as issues concerning the compatibility between contemporary international human rights issues with classical and contemporary forms of Islamic law.

Suggested Reading:*

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

M. Cherif Bassiouni, ed, *Al Watha’eq al-Dawlia al-Ma’neyya bi Huquq al-Insan: Al-Watha’eq al-blamiya wallqlimia [International Protection of Human Rights: Islamic and Regional Instruments]* (Cairo: Dar El Shorouk 2003).

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.

10:20AM-10:35AM **Break**

10:35AM-12:15PM SESSION VI: ISLAMIC CRIMINAL LAW

Moderator: **Hamid M. Khan**, *Deputy Director, The Rule of Law Collaborative, University of South Carolina*

Hillary Forden, *Senior Justice Sector Program Advisor, The Bureau of International Narcotics and Law Enforcement Affairs' Office of Afghanistan and Pakistan, U.S. Department of State*

Few areas of substantive Islamic law capture the attention of the media, detractors, and politicians of all stripes more than Islamic criminal law. The beginning of this session will offer participants an in-depth understanding of the classical offenses, contemporary case law, defenses, and evidentiary issues concerning Islamic criminal law as well as the challenges posed by its imposition and application in the contemporary period. Once the foundation of Islamic Criminal Law is set, the session will then transition to a practical discussion of U.S. Government-funded programming that focused on criminal law reform in Afghanistan.

Suggested Reading:*

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).

12:15PM-1:15PM Lunch

1:15PM-2:30 PM SESSION VII: COLONIALISM, ISLAMIC FUNDAMENTALISM & POLITICAL ISLAM

Moderator: **Hamid M. Khan**, *Deputy Director, The Rule of Law Collaborative, University of South Carolina*

Dr. Peter Mandaville, *Professor of International Affairs in the Schar School of Policy and Government, George Mason University and Former Senior Adviser in the Secretary of State's Office of Religion & Global Affairs, U.S. Department of State*

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. Predictions of Islamic law's early demise, however, were premature. This session will examine how Islamic laws reacted 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:*

Hamid, Shadi et. al., *Islamism, Jihadism, and Salafism, A Primer*, The Brookings Institution.

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

2:45PM-4:30PM **SESSION VIII: INTERAGENCY PRACTITIONERS' DISCUSSION**

Moderator: **Hamid M. Khan**, *Deputy Director, The Rule of Law Collaborative, University of South Carolina*

Lauren R. Barr, *Member of Policy Planning Staff, Office of Secretary, U.S. Department of State*

Susan Goldman, *Program Director, Libya and Tunisia, American Bar Association Rule of Law Initiative*

Zeina Hinnawi, *Bureau of Counterterrorism and Countering Violent Extremism, U.S. Department of State*

The concluding session of the course will be devoted to interagency practitioners discussing the successes and challenges of programming in Islamic Law countries. The practitioners will discuss both past or current programs and considerations unique to within the Islamic world that program officers should be prepared for during programmatic development and implementation.

4:30PM-5:00PM **Wrap-up and Feedback**