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

July 1-2, 2019

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

ABA Rule of Law Initiative
1050 Connecticut Avenue, NW
Washington, DC 20036

Nearest Metro: Farragut North

Contact Information

Contact: Hamid M. Khan
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Day I: Monday July 1, 2019

8:30AM-9:00AM  Registration

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

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:

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:

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

*Suggested reading and reference materials are optional.
1:15PM-2:30PM


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

Suggested Reading:


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:

*Suggested reading and reference materials are optional.
Day II: Tuesday July 2, 2019

8:30AM-9:00AM    Registration

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

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

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


Palwasha Kakar, Senior Program Officer, 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:


10:20AM-10:35AM    Break

*Suggested reading and reference materials are optional.
10:35AM-12:15PM    SESSION VI: ISLAMIC CRIMINAL LAW

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

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.

Suggested Reading:


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:

2:30PM-2:45PM    Break

*Suggested reading and reference materials are optional.
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

James D. Filpi, Senior Counsel, Commercial Law Development Program, U.S. Department of Commerce

Hawa Ghaus, Senior Policy Advisor, Office of Global Criminal Justice, 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