

AGENDA

Postconflict Justice and Islam Workshop



LOCATION:
Beacon Hotel
1615 Rhode Island Avenue NW
Washington, DC 20036
202.296.2100

8:30 Registration and Coffee

9:00 Welcome Remarks

William B. Taylor, *Vice President, Center for Post-Conflict Peace and Stability Operations, United States Institute of Peace (USIP)*

M. Cherif Bassiouni, *Distinguished Research Professor of Law, DePaul University College of Law, President, International Institute of Higher Studies in Criminal Sciences (ISISC)*

9:15 Framework for the Conference

Scott Worden, *Senior Rule of Law Adviser, Rule of Law Center of Innovation, USIP*

William C. Banks, *Director, Institute for National Security & Counterterrorism (INSCT), Board of Advisors Distinguished Professor, College of Law/Maxwell School of Citizenship, Syracuse University*

9:30 DISCUSSION I: Shari‘ā and Postconflict Justice—Moving beyond Legal Compatibility Questions

Panelists:

Cherif Bassiouni, *“The Shari‘ā and Post-Conflict Justice”*

Niaz Shah, *“Islamic Law of Qital and the Law of Armed Conflict,” Lecturer in Law, University of Hull Law School, United Kingdom*

Wael Hallaq, *“Juristic Authority and State Power: Legal Crises in Modern Islam,” Avalon Foundation Professor in the Humanities, Columbia University (Invited)*

Abdullahi Ahmed An-Na'im, *“Mediating the Legitimate Coexistence of Islamic Law and State Law,” Charles Howard Candler Professor of Law, Emory University School of Law (Invited)*

John Kelsay, *“Islamist Movements and Shari'a Reasoning,” Associate Dean, College of Arts and Sciences, Richard L Rubenstein Professor of Religion/Bristol Distinguished Professor of Ethics, Department of Religion, Florida State University*

Ali A. Mazrui, *Albert Schweitzer Professor in the Humanities and Director of the Institute of Global Cultural Studies at Binghamton University/Director, Institute of Global Cultural Studies, Binghamton University, SUNY*

Mohammed Fadel, *Professor of Law, University of Toronto*

10:30 Coffee Break

10:45 Structured Discussion:

- ❖ What are commonalities in Islamic law/ Shari‘ā and postconflict justice in terms of truth, accountability, and compensation, or other aspects that indicate no legal incompatibility between the two schools?
- ❖ Are the doctrinal categories of Hudud, Qesas, and T‘azir crimes applicable to mass casualties or abuse? What, if any obstacles are there to applying their regulations to a post-conflict justice context?
- ❖ If Shari‘ā has in certain ways been more progressive on humanitarian and armed conflict subjects than IHL how do we explain lack of compliance among Muslim state and nonstate actors?

- ❖ Is appeal to Islam used as an excuse to evade international pressure to abide by humanitarian and human rights norms?
- ❖ Given the diversity of Shari‘ā in sources, authorities, and doctrine even within a single country is the pursuit of international post-conflict justice based on ‘Islamic norms’ naïve?

Discussants:

Muhammad H. Faghfoory, *Professorial Lecturer of Religion in Islamic Studies, George Washington University*

Jonathan Brown, *Islamic Studies and Muslim-Christian Understanding, Center for Muslim-Christian Understanding, School of Foreign Service, Georgetown University*

Chris Jenks, *Lieutenant Colonel, U.S. Army, Chief, International Law Branch, Office of The Judge Advocate General*

Ambassador Feisal Amin Rasoul Istrabadi, *University Scholar in International Law & Diplomacy, Director, Center for the Study of the Middle East (IUNRCSME), Indiana University Maurer School of Law*

Moderator: Cherif Bassiouni

12:00 Lunch

1:00 DISCUSSION II: Problems of Noncompliance in and beyond the Muslim World—Postconflict Justice Mechanisms and Strategies

Panelists:

Naz Modirzadeh, *Senior Associate/Head of Policy, Harvard Program on Humanitarian Policy & Conflict Research (HPCR), International Humanitarian Law/Middle East, Harvard University*

Sadiq Reza, *Professor of Law, New York Law School*

Shireen T. Hunter, *Visiting Professor, Center for Muslim-Christian Understanding, School of Foreign Service, Georgetown University*

Ann Elizabeth Mayer, *Associate Professor of Legal Studies, Department of Legal Studies and Business Ethics, The Wharton School, University of Pennsylvania*

Mohammad Serag, *Professor of Islamic Studies, American University – Cairo, Former Chairman of Islamic Law Department, Alexandria University*

2:30 Structured Discussion: Practical Steps to Improve Compliance

- ❖ If Shari‘ā presumes postconflict justice and is not a hindrance to it, why has postconflict justice not materialized in Muslim majority states? What are barriers to compliance— such as weak traditions in the rule of law, human capital and development deficit, lack of strong institutions and systems?
- ❖ How do certain settings and contexts which have strained the limits of existing IHL regulation— insurgency, occupation, peace enforcement, reconstruction, and stability operations—raise tensions between international and domestic law, international and Islamic law?
- ❖ Do the standard tools of post-conflict justice – international tribunals, truth commissions, compensation schemes, and vetting mechanisms – contradict Islamic principles of justice? If so, how might they be better aligned?
- ❖ How do problems of compatibility emerge in conflict and postconflict settings, such as Iraq and Afghanistan, as issues of politics, power sharing, and governance?
- ❖ How can the rule of law develop alongside postconflict justice? Do viable postconflict justice modalities (prosecuting perpetrators of international and national crimes, truth commissions and truth-telling bodies, reparations for victims, legal, administrative and political reform to prevent conflict recurrence) presume, first, an existing rule of law?

Discussants:

Isaac Kfir, *Shusterman Visiting Professor, International Relations and Law, Maxwell School of Citizenship, Syracuse University*

Neil Kritz, *Senior Scholar in Residence, Center for Mediation and Conflict Resolution, USIP*

David Johnson, *Assistant Secretary of State, Bureau of International Narcotics and Law Enforcement Affairs, U.S. State Department*

COL Anthony Lieto, USA, (Ret.), *Governance Reform Planning Advisor, Security, Reconstruction & Transition Division, US Army Peacekeeping and Stability Operations Institute (PKSOI), Carlisle, PA*

Jamie A. Williamson, *Regional Legal Advisor, International Committee of the Red Cross (ICRC)*

Moderator: Scott Worden

3:15 **Coffee Break**

3:30 **DISCUSSION III: New Thinking and Next Steps—Agenda for Action and Future Research**

Agenda for Action: What are we advocating: Raising awareness throughout the Muslim world on the compatibility of Shari‘ah and postconflict justice? Calling attention to the double standard, not just between West and East on international crimes, but for Muslim on Muslim conduct during hostilities? A new US policy strategy for increasing compliance with international humanitarian and criminal law? An agenda for implementing PCJ initiatives in the Muslim world?

Moderators: Bill Banks, Cherif Bassiouni

Structured Discussion:

Policy Issues:

- ❖ Invite comments from State, DoD, Army War College perspectives: “How has US policy evolved on postconflict justice, stability and peace operations, and transitioning states?”
- ❖ How can Muslim states and organizations (OIC, Arab League) become stakeholders in Islamic legal contribution to postconflict justice paradigms, particularly as they are on the ‘front lines’ of new conflict challenges (e.g., insurgency, home-grown terrorism, mass atrocity, failed states)?
- ❖ If political and development obstacles—not legal/religious ones—prevent postconflict justice programs from gaining traction in Muslim countries where does that leave PCJ initiatives? Should we focus on the basic tenets of Islamic law which require postconflict justice to be addressed (like basic tenets of ‘Western’ justice and international law), and should there be an obligation for scholars and practitioners in Muslim states to work together to bring about that end state in more effective ways?

Doctrinal Questions:

- ❖ Are there Islamic approaches to international crimes, postconflict justice mechanisms, atrocities and their aftermath? What would a Shari‘ah-inspired truth commission look like?
- ❖ What lacunae in Islamic law must be addressed to complete an argument for application of Islamic law to post-conflict settings (e.g. authority of international treaties, statutes of limitations, evidentiary norms, legitimacy of tribunals, etc.)?
- ❖ Papers to write and assignments.

5:00 **Adjourn**