

## **Lawyers: Islamic Law**

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While pre-modern Islamic law does not provide any description of professional lawyers, medieval Muslim jurists speak of lawsuit proxy (al-wakīl bi-l-khuṣūma). Lawsuit proxy is a form of representation under the general umbrella of legal proxy (wakāla), which can apply to matters of civil and criminal law, personal status law, and even rituals. A proxy can represent a principle in concluding contracts of sale, hiring, and marriage, and can also perform the pilgrimage to Mecca on the principle's behalf and distribute alms due in the principle's money. A lawsuit proxy can represent the principle in a lawsuit, even if the proxy was not involved in any activity related to the lawsuit (such as any sale or marriage contract in question). The Muslim judge is charged with the duty of determining whether a lawsuit proxy is a proper representative of the principle (whether a claimant or defendant). The actions of a lawsuit proxy (wakīl) are binding for the principle (aṣīl) represented by the proxy.

However, representation in court by a lawsuit proxy in medieval Islamic courts cannot be compared to the modern practice of representation by attorneys with legal qualifications. Medieval Muslim jurists do not indicate that a lawsuit proxy must receive any training to appear in court on behalf of the principle. In fact, lawsuit proxies (wukalāʾ) have occasionally developed a reputation of being unsavory (on top of being untrained) and were accused of bringing frivolous lawsuits before the courts.

In the 16<sup>th</sup> century, a semi-professional group of private representatives (known as daʿwā wekīli) was formed in Ottoman cities and charged fees for their services, but attempts at regulating the legal profession in the Ottoman Empire to model it after Western norms did not begin until in 1878.

In Egypt in 1845, Muḥammad ʿAlī established merchants councils (majālis al-tujjār), and the procedural laws organizing these councils acknowledged that a lawsuit proxy or attorney may represent the interest of the parties in a case before the councils. In 1875 the Mixed Courts (maḥākīm mukhtalaṭa) were established to deal with cases which involved foreign nationals or their interest. Only then did the law specify that a lawsuit proxy (now named an advocate or ʿavukātī, an arabicization of the French “avocat”) must receive legal education to represent a party in a case before the courts. In 1888 clear regulations determined the age

and competence expected in an advocate/lawyer. In 1893 it was specified that, for an advocate to practice law, he/she must earn a degree from the Royal School of Law or an equivalent foreign institution. With the creation in 1912 of the Bar Association of National Courts, a distinct body was to be entrusted with regulating the legal professions, including registration, practice and discipline.

The systematic training of lawyers in the Muslim world went hand in hand with the development of legal practice and advocacy as a profession. The teaching of modern law began as early as 1836 in Egypt in the School of Languages. This school was developed and renamed Khedieval School of Law in 1868 and was headed by French directors until 1907. Several changes followed allowing legal education to reach a high level even by European standards. Only members of the Bar Association were allowed to practice law as litigants, and this was open to graduates of law schools who have to undergo a two-year apprenticeship in the office of a practicing attorney before working independently. Other Arab and Muslim countries have developed similar rules about legal education and the legal professions.

Lawyers' guilds in the Muslim world have occasionally developed a reputation for political activism. The Egyptian Board of the Bar Association was known for its opposition to the government and was dissolved once under Nasser in 1954 and twice under Sadat in 1971 and in 1981 and finally once under Mubarak in 1993 and replaced by court-appointed custodians. After years of administration by the custodians, elections to the Bar association were held in 2001.

Some Muslim countries still allow lawyers with training in traditional Islamic law to practice law before personal status law courts, which use codes based on Islamic law. Other countries have different kinds of schools that teach law: Some schools provide only a standard law education that trains lawyers (School of Law /Rights = Kulliyat al-Ḥuqūq or Kulliyat al-Qānūn) and other schools provide hybrid education including Islamic law and secular laws (School of Islamic and Secular Laws = Kulliyat al-Sharī'a wa-l-Qanūn).

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