

Islamic Law (writing flag) – Fall 2011

(ISL 340/41435, MES 328/41560, R S 358-2/43640, ARA 372/41137, WGS 340/46975)

Prof. Hina Azam

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Course Description

From the beginnings of Islam in the 7th century until today, observant Muslims have sought to live their lives in accordance with Islamic moral law, or shari'a. This upper-division course is designed to give students a foundation in the substantive teachings of the shari'a, which comprises not only what we normally think of as law, but also ethics and etiquette. Specific areas of coverage include the following: rules of ritual worship, ethical principles, etiquette, family and personal status law, criminal law, economic and contract law, constitutional and international law. Although the bulk of the course will concern classical Islamic law, we will take time out to discuss issues of contemporary concern as well, such as gender equity, human rights, medical ethics, and warfare. Readings will be in both secondary literature and primary texts (in translation). This course will assume a basic working knowledge of Islam. *This is a writing flag course.*

Readings

Textbooks are available at the Co-Op, and the course reader is available at Speedway Printers in Dobie Mall.

- *The Origins and Evolution of Islamic Law*, by Wael Hallaq, at the Co-Op
- *The Spirit of Islamic Law*, by Bernard Weiss, at the Co-Op
- *Religion of Islam*, by Muhammad Ali (1998), available in pdf format
- Course Reader

Course Requirements

5 essays, 14% each	70%
Attendance	15%
Preparedness & participation	15%

Grading Rubric

Average	Letter	Average	Letter
93-100	A	73-76	C
90-92	A-	70-72	C-
87-89	B+	67-69	D+
83-86	B	63-66	D
80-82	B-	60-62	D-
77-79	C+	59 and below	F

Note: Final course grades will be rounded to the nearest point, eg:
89.2 = 89 = B+ ; 89.7 = 90 = A- ; 89.5 = 90 = A-

Essays

Technical Requirements

- Each essay should be 3-4 pages in length, double-spaced. They must be submitted electronically, as Word files, by any time on their due dates.

- Each essay must contain three parts:

Part 1) EITHER **summary**, wherein you explain the author's main points, OR **analysis**, in which you explore a certain theme within the readings. All students *must* initially choose the summary option, and may only move on to the analysis option – if they so choose – after obtaining permission. This will be the bulk of your essay.

Part 2) **Critique**, in which you present one **positive** or persuasive aspect of the readings, and one **negative** or unpersuasive aspect of the readings.

Part 3) A **thematic question**, through which you demonstrate your ability to think beyond the text to broader or deeper concerns.

The three components must be separated into their own sections of the essay, and sections must be labeled (e.g. "Summary" (or "Analysis"), "Critique," and "Question").

- Make sure you provide **support** as needed in your essays. Please use parenthetical citations, providing only page number if you are drawing on one work only, or author/page number if you are drawing on more than one work. Limit use of direct quotes in the body of your essay.

- Each assignment must have a proper **heading**, including your *name, assignment number, date of submission, and readings addressed*.

- Only assignments submitted **on their due dates** are guaranteed to receive full credit. Late submissions will be marked down at my discretion by up to 10 points (approximately one letter grade). *Always submit work, even if it is late, because an 'F' is better than a zero.*

Assessment

As this is a writing-intensive course, the quality of your essays will form a substantial portion of your course grade. Grading will be based on two aspects of your essays, these being *substance* and *style*. These are defined as follows:

Style

- mechanics: spelling, grammar and syntax
- diction: appropriateness and variety of word choice
- conventions: adherence to conventions of academic prose, such as tone, structure and supporting one's claims through citations

Substance

- accuracy: accurate representation of facts and of authors' ideas
- analysis: conceptual richness, depth of critique
- cogency: narrative structure and logical flow

- Letter grades for essays are earned as follows:

- An "A" essay is one that is of the highest quality at the level of both content and style.

- A "B" essay is one that is strong in one aspect (content or style) but mediocre in the other.

- A "C" essay is one that is mediocre in both aspects.

- "D" and "F" essays are those that are poor in both content and style, to varying degrees.

IMP: In order to receive an 'A' on a writing assignment, a paper *must be mechanically sound*. Without mechanical soundness, a paper can attain no higher than a 'B'.

- The objective in a writing course is to *improve* one's writing based on feedback and instruction. Therefore, you will have the opportunity to *revise* your essays based on TA feedback.

Note: You may also take advantage of the Undergraduate Writing Center. They will help you identify problems in your writing and will also help you find solutions for those problems.

Class Participation

Your *class participation* is highly valued. Your class participation grade will be determined by the following:

A) Attendance: You are permitted two absences without detriment to your grade. Anything beyond that will adversely affect your course grade. For extenuating circumstances, a note and/or prior permission is requested, and may mitigate the effect of an absence from class. I will take attendance at the beginning of class. If you arrive late, it is your responsibility to come to me after class and inform me of your presence that day. I will mark you as 'present/tardy' on those days. Repeated or significant tardiness will adversely affect your grade.

B) Engagement: Be prepared for class by completing the readings beforehand. Demonstrate your preparedness in class by offering observations, asking and answering questions, and participating in class discussion.

NOTE: Laptop and cellphone use is prohibited in class.

Course Schedule

DATES TO REMEMBER:

First day of class	Thursday 8/25
Thanksgiving break	Thursday 11/24 – Sunday 11/27
Last day of class	Thursday 12/1
Final exams	TBA (available online at UT Registrar's website)

UNIT 1 BASIC STRUCTURE AND CONCEPTS OF ISLAMIC LAW; CLASSICAL JURISPRUDENCE (USUL AL-FIQH): SOURCES AND METHODS (#1-5)

- 1) Thu 8/25 Islamic law among the classical religious disciplines;
Shari`a as law, ethics and etiquette; Shari`a vs fiqh
- 2) Tue 8/30 Fiqh: Usul al-Fiqh (jurisprudence) vs Furu` al-Fiqh (substantive law)
The Usul: Material and Methodological
 - Weiss, 16-23 (from ch.1, shari`a, ahkam shar`iyya, and ahkam wad`iyya)
 - Weiss, ch.2 (24-37, "Divine sovereignty and human subordination")
- 3) Thu 9/1 The Material Usul: Establishment and Interpretation
The Methodological Usul: Application
The tension between textualism and rationalism
 - Weiss, ch.3 (38-65, "The textualist/intentionalist bent")
 - Weiss, ch.4 (66-87, "The venture beyond the texts")
- 4) Tue 9/6 Furu` al-Fiqh: Ibadat, Mu`amalat, Abdan
Rights of God (huquq allah) vs Personal Rights (huquq adamiyya)
The concept of Hudud
 - **Essay 1 due**
 - Weiss, ch.5 (88-112, "Probabilism and the limits of certainty")
 - Weiss, ch.6 (113-144, "Juristic authority and the diversity of schools")
- 5) Thu 9/8 The Hukm: Ahkam Shar`iyya vs Ahkam Wad`iyya;
The Fatwa / Mas`ala; Alim, Faqih, Mufti, Mujtahid, Qadi;
 - Weiss, ch.7 (145-171, "The moralistic bent")
 - Weiss, ch.8 (172-185, "Public and private dimensions of the law")

UNIT 2 ISLAMIC LEGAL HISTORY (#6-8)

- 6) Tue 9/13 Historical emergence of the furu` and the judiciary
 - Hallaq, ch.2 (29-56, "The emergence of an Islamic legal ethic")
- 7) Thu 9/15 Historical emergence of the usul and related debates;
Historical emergence of the schools of law (madhhabs);
 - **Essay 1 revision due**
 - Hallaq, ch.3 (57-78, "The early judges, legal specialists, and the search for religious authority")
 - Hallaq, ch.4 (79-101, "The judiciary coming of age")
- 8) Tue 9/20 Historical emergence of ethics (maqasid and qawa`id kulliiyya)

Overview of the legal literature: structure and content of Qur'an, hadith and furu` texts

- Hallaq, ch.6 (122-149, "Legal theory expounded")
- Hallaq, ch.7 (150-177, "The formation of the legal schools")

UNIT 3 LAWS OF WORSHIP (‘ibadat), DIETARY and DRESS (#9-11)

9) Thu 9/22 **The concept/function of ‘ibada and its relation to shahada
Purity and pollution (tahara); Discussion of Ghazali**

• **Essay 2 due**

- Reader: [primary text] Imam Ghazali, "The Manner of Ablution" (36-50)

10) Tue 9/27 **The concept of *taklif*; the practices of prayer and charity**

- Ali, pt.3, ch.1 (263-338, "Salat")
- Ali, pt.3, ch.2 (339-353, "Zakat or Charity")

11) Thu 9/29 **The practices of fasting and pilgrimage**

Rules relating to daily life (food and drink, manners, dress)

- Ali, pt.3, ch.3 (354-374, "Sawm or Fasting")
- Ali, pt.3, ch.10 (536-545, "General Regulations")

**UNIT 4 FAMILY LAW: MARRIAGE (nikah), DIVORCE (talaq), &
INHERITANCE (fara'id) (#12-15)**

12) Tue 10/4 **Sexuality and Gender; Betrothal and its Elements;
The Conjugal Relationship and Associated Rights**

• **Revised Essay 2 due**

- Ali, pt.3, ch.6 (444-508, Family Law/Marriage & Divorce)

13) Thu 10/6 **Continuation**

- Complete Ali

14) Tue 10/11 **Dissolution of Marriage: Types of Talaq, Khul', Faskh**

- Reader: Anderson (55-79, "Islamic Family Law")

15) Thu 10/13 **Inheritance**

• **Essay 3 due**

- Ali, pt.3, ch.8 (517-527, "Inheritance")

UNIT 5 CRIMINAL LAW (jinayat) (#16-18)

16) Tue 10/18 **The Hudud: Definition, Types, Penalties**

- Ali, pt.3, ch.11 (549-561, Criminal Law)

17) Thu 10/20 **Continuation; Apostasy**

- Reader: Peters & de Vries (1-25, "Apostasy in Islam")

18) Tue 10/25 **Discussion of Ibn Rushd**

• **Revised Essay 3 due**

• Reader: [primary text] Ibn Rushd, v.2, 56.2-56.3 ("Jirah (Injuries)" and "Diyat (Blood-Money) for Loss of Life")

UNIT 6 FINANCE AND PROPERTY LAW (#19-21)

19) Thu 10/27 **Qur'an and Sunna on Contract, Commerce and Finance**

• Ali, pt.3, ch.7 (509-517, Property Law)

• Reader: Vogel & Hayes, ch.3 (53-69, Contract and Commerce)

20) Tue 11/1 **Principles of Riba, Gharar, and Mal/Milk/`Ayn/Manfa`a**

• Ali, pt.3, ch.9 (528-535, Lending Law)

• Reader: Vogel & Hayes, ch.4 (71-95, Usury, Risk and Property)

21) Thu 11/3 **Contracts: `Aqd/Shart, various types of contracts**

• **Essay 4 due**

• Reader: Vogel & Hayes, ch.5 (97-128, Contract)

UNIT 7 INTERNATIONAL LAW (#22-24)

22) Tue 11/8 **Classical jihad theory**

• Reader: Peters, ch.2 (9-37, "The Classical Doctrine of Jihad")

23) Thu 11/10 **Modern ideas on jihad**

• Reader: Peters, ch.4 (105-135, "The Doctrine of Jihad in Modern Islam")

24) Tue 11/15 **Discussion of Shaybani on Warfare**

• **Revised Essay 4 due**

• Reader: [primary text] Shaybani, chs.1-2 (75-105, Warfare)

• Reader: [primary text] Ottoman jihad fatwa of 1914, in R. Peters, Jihad, 55-57

UNIT 8 ISLAMIC LAW AND CONTEMPORARY CONCERNS (#25-28)

25) Thu 11/17 **Contemporary critiques of marriage law**

• Reader: Ali, ch.7 (163-189, Marriage/Divorce Law)

26) Tue 11/22 **Contemporary debates over usury/interest**

• Reader: Saeed, ch.3 & ch.8 (41-50 & 119-141, Interest/Usury and Banking)

Thu 11/24 **No class - THANKSGIVING BREAK**

27) Tue 11/29 **Contemporary approaches to jihad**

• **Essay 5 due - no revisions**

• Reader: [primary text] Shaltut (59-101, Jihad)

28) Thu 12/1 **Course Wrap-Up**