

Islamic Law (writing flag) – Spring 2014

Prof. Hina Azam

Cross-listings: ISL 340.5/42136, MES 342.27/42546, RS 358/44601,
MEL 321/42281, and WGS 340.27/48032

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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 writing-intensive 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. As a writing flag, this course will also emphasize academic writing.

Readings

Textbooks are available at the Co-Op, and the supplementary readings will be available on Blackboard. At the Co-Op, please find the following:

- *The Origins and Evolution of Islamic Law*, by Wael Hallaq
- *Al-Maqasid*, by al-Nawawi, tr. and ed. Nuh H. M. Keller
- *Women in Muslim Family Law*, by John Esposito and N. DeLong-Bas

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 midnight on their due dates.
- Each essay must contain three components:
 - 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. Part I will comprise 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.

These 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, 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) per day. *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. Assessment 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 coherence

- 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 your writing based on feedback and instruction. Therefore, you will have the opportunity to revise your draft essays based on instructor feedback. Submitting a draft is not optional; in order to be able to submit a final version of an essay, you must submit a draft version of it. If you submit your draft late, then the corresponding point reduction will be made on your final submission.

Ex) If you submit your draft essay #2 late by 2 days, then up to 20% may be subtracted from your final essay #2. If you also submit your final essay #2 late by one day, then up to 30% may be subtracted from your final essay #2.

Note: I encourage you to 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. They also hold Friday workshops on various topics.

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 may 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 may also 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: The use of electronic devices is prohibited in class.

Course Schedule

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

- 1) Tue 1/14 Islamic law among the classical religious disciplines;
Shari`a as law, ethics and etiquette; Shari`a vs fiqh
- 2) Thu 1/16 Fiqh: Usul al-Fiqh (jurisprudence) vs Furu` al-Fiqh (substantive law)
The Usul: Material and Methodological
 - Hallaq (*History*), ch.1 ("The formative period")
- 3) Tue 1/21 The Material Usul: Establishment and Interpretation
The Methodological Usul: Application
The tension between textualism and rationalism
 - Hallaq (*History*), ch.2 ("The articulation of legal theory: I")
- 4) Thu 1/23 Furu` al-Fiqh: Ibadat, Mu`amalat, Abdan
Rights of God (huquq allah) vs Personal Rights (huquq adamiyya)
The concept of Hudud
 - Hallaq (*History*), ch.3 ("The articulation of legal theory: II")
- 5) Tue 1/28 The Hukm: Ahkam Shar`iyya vs Ahkam Wad`iyya;
The Fatwa / Mas`ala; Alim, Faqih, Mufti, Mujtahid, Qadi;
 - Hallaq (*Origins*), ch.2 (29-56, emergence of an Islamic legal ethic)

UNIT 2 ISLAMIC LEGAL HISTORY (#6-8)

- 6) Thu 1/30 Historical emergence of the furu` and the judiciary
 - Hallaq (*Origins*), ch.3 (57-78, early judges and legal specialists)
 - Essay 1 draft due
- 7) Tue 2/4 Historical emergence of the usul and related debates;
Historical emergence of the schools of law (madhhabs);
 - Hallaq (*Origins*), ch.4 (79-101, "The judiciary coming of age")
- 8) Thu 2/6 Historical emergence of ethics (maqasid and qawa`id kulliyaa)
Overview of the legal literature: structure and content of Qur'an, hadith and furu` texts
 - Hallaq (*Origins*), ch.7 (150-177, "The formation of the legal schools")

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

- 9) Tue 2/11 Intro concepts: *taklif*, *ibada*, and *niyya*; tahara and *najasa*
 - Keller/Nawawi, chs.1-2 ("Fundamentals" and "Purification")
 - Essay 1 final due
- 10) Thu 2/13 Salat
 - Keller/Nawawi, ch.3 (on prayer/salat)

11) Tue 2/18 Zakat, Sawm, and Hajj

- Keller/Nawawi, chs.4, 5 and 6 (on alms/zakat, fasting/sawm, and pilgrimage/hajj)

UNIT 4 FAMILY LAW: MARRIAGE (nikah) and DIVORCE (talaq) (#12-15)

12) Thu 2/20 Classical doctrines of marriage and divorce

- Suppl: Esposito (*Muslim Family Law*), ch.2 (12-46, classical Muslim family law overview)
- Essay 2 draft due

13) Tue 2/25 Classical doctrines of marriage and divorce, continued

- Suppl: start Ibn Rushd, ch.8 (nikah – skip “issues” and “points” subsections throughout)

14) Thu 2/27 Primary text: Ibn Rushd on marriage

- Suppl: complete Ibn Rushd, ch.8 (nikah) and begin ch.9 (talaq)

15) Tue 3/4 Primary text: Ibn Rushd on divorce

- Suppl: complete Ibn Rushd, ch.9
- Essay 2 final due

UNIT 5 CRIMINAL LAW (*hudud* and *jīnayat*) (#16-18)

16) Thu 3/6 Classical doctrine of *hudud* and *jīnayat*

- Suppl: Peters (*Crime and Punishment*), ch.2 (classical doctrine of criminal law)

SPRING BREAK – 3/10 – 3/15

17) Tue 3/18 Classical doctrine, continued

- Suppl: complete Peters (*Crime and Punishment*), ch.2

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

18) Thu 3/20 Qur'an and Sunna on Contract, Commerce and Finance

- Suppl: Vogel & Hayes (*Isl Law and Finance*), ch.3 (53-69, Contract and Commerce)
- Essay 3 draft due

19) Tue 3/25 Principles of Riba, Gharar, and Mal/Milk/`Ayn/Manfa`a

- Suppl: Vogel & Hayes (*Isl Law and Finance*), ch.4 (71-95, Usury, Risk and Property)

20) Thu 3/27 Contracts: `Aqd/Shart, various types of contracts

- Suppl: Vogel & Hayes (*Isl Law and Finance*), ch.5 (97-128, Contract)

UNIT 7 INTERNATIONAL LAW (#22-24)

21) Tue 4/1 Classical jihad theory

- Suppl: Peters (*Islam and Colonialism*), ch.2 (9-37, "The Classical Doctrine of Jihad")
- Essay 3 final due

22) Thu 4/3 Ibn Rushd and Ibn Taymiyya on jihad

- Suppl: Peters (*Jihad*), chs.4-5 (27-54, Ibn Rushd and Ibn Taymiyya on jihad)

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

23) Tue 4/8 Themes: madhhab vs salaf; ethical principles vs positive law; taqlid vs ijfihad/bid`a

- Suppl: Esposito (*Muslim Family Law*), ch.4 (127-163, "Toward a Legal Methodology for Reform")
- Optional: Nawawi, from ch.103-157 (on following a madhhab)

24) Thu 4/10 Contemporary perspectives on the *hudud*

- http://theamericanmuslim.org/tam.php/features/articles/tariq_ramadan_calls_f_or_a_moratorium_on_corporal_punishment/
- <http://www.islamopediaonline.org/fatwa/tariq-ramadan-calls-moratorium-stonings-and-executions>
- Essay 4 draft due

25) Tue 4/15 Modern family law reforms

- Suppl: Esposito (*Muslim Family Law*), from ch.3 (47-92, family law reform across the Muslim world)

26) Thu 4/17 Modern family law reforms, continued

- Suppl: Esposito (*Muslim Family Law*), from ch.3 (93-11, overview of reforms, and 119-126, methodologies of reform)

27) Tue 4/22 Contemporary critiques of classical marriage law

- Suppl: Ali (*Progressive Muslims*), ch.7 (163-189, Marriage/Divorce Law)
- Essay 4 final due

28) Thu 4/24 Modern approaches to jihad

- Suppl: Peters (*Jihad*), ch.8 (103-148, "The Doctrine of Jihad in Modern Islam")

29) Tue 4/29 Muhammad Shaltut on jihad

- Suppl: [primary text] Peters (*Jihad*), ch.7 (59-101, Shaltut on jihad)

30) Thu 5/1 course wrap-up

- Essay 5 final due – no draft/revision option