

# Islamic Law (writing flag) – Fall 2014

## Prof. Hina Azam

Cross-listings: ISL 340.5/41760, MES 342.27/42155, RS 358/44255,  
MEL 321/41880, and WGS 340.27/47825

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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 supplementary readings will be available on Blackboard. Readings from the textbooks are marked in **blue font**. Readings that are available on Blackboard are marked in **green font** and **purple font**.

#### Textbooks:

- *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

**Supplementary readings** are taken from the following:

- *A History of Islamic Legal Theories*, Wael Hallaq
- *Crime and Punishment in Islamic Law*, Rudolph Peters
- *Distinguished Jurist's Primer*, Ibn Rushd (in translation)
- *Islamic Law and Finance*, Frank Vogel and Samuel Hayes
- *Islam and Colonialism*, Rudolph Peters
- *Jihad in Classical and Modern Islam*, Rudolph Peters

### 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.*

## Class Schedule

### DATES TO REMEMBER:

First day of class	Thursday 8/28
Thanksgiving holiday	Thursday 11/27 to Saturday 11/29
Last day of class	Thursday 12/4
Final exams	TBA (available online at UT Registrar's website)

### INTRODUCTORY UNIT (#1)

- 1) Thu 8/28 Course Introduction: Islamic law among the classical religious disciplines; Shari'a as law, ethics and etiquette; Shari'a vs fiqh

### UNIT 1 ISLAMIC LEGAL HISTORY (#2-4)

- 2) Tue 9/2 Historical emergence of the furu` and the judiciary
  - Hallaq (*Origins*), ch.3 (57-78, early judges and legal specialists)
  - "High School to College Writing"
- 3) Thu 9/4 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")
  - "Introductions & Conclusions"
- 4) Tue 9/9 Historical emergence of ethics (maqasid and qawa'id kulliyya) 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")
  - "Thesis Statements"

### UNIT 2 BASIC STRUCTURE AND CONCEPTS OF ISLAMIC LAW; CLASSICAL JURISPRUDENCE (USUL AL-FIQH): SOURCES AND METHODS (#5-8)

- 5) Thu 9/11 Fiqh: Usul al-Fiqh (jurisprudence) vs Furu` al-Fiqh (substantive law) The Usul: Material and Methodological
  - Hallaq (*History*), ch.1 ("The formative period")
  - "Paragraphing"

- 6) Tue 9/16 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")
  - Essay 1 draft due, on readings for classes #2-4 (*Origins* chs.3, 4 & 7)
- 7) Thu 9/18 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")
  - "Sentence Structure"
- 8) Tue 9/23 The Hukm: Ahkam Shar`iyya vs Ahkam Wad`iyya;  
Fatwa; Alim, Faqih, Mufti, Mujtahid, Qadi
- Hallaq (*Origins*), ch.2 (29-56, emergence of an Islamic legal ethic)
  - "Fragments and Run-ons"

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

- 9) Thu 9/25 Intro concepts: *taklif*, *ibada*, and *niyya*; *tahara* and *najasa*
- Keller/Nawawi, chs.1-2 ("Fundamentals" and "Purification")
  - Essay 1 final due
- 10) Tue 9/30 Salat
- Keller/Nawawi, ch.3 (on prayer/salat)
  - "Commas"
- 11) Thu 10/2 \*\* Zakat, Sawm, and Hajj
- Keller/Nawawi, chs.4, 5 and 6 (on alms/zakat, fasting/sawm, and pilgrimage/hajj)
  - "Flow and Transitions"

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

- 12) Tue 10/7 Classical doctrines of marriage and divorce
- Esposito, ch.2 (12-46, classical Muslim family law overview)
  - Essay 2 draft due, on readings for class #5-7 (*History* chs.1-3) or #9-11 (Keller/Nawawi chs.1-6)
- 13) Thu 10/9 Classical doctrines of marriage and divorce, continued
- Ibn Rushd, begin ch.8 (nikah – skip "issues" and "points" subsections throughout)
  - "Direct Quotations"
- 14) Tue 10/14 Primary text: Ibn Rushd on marriage
- Ibn Rushd, complete ch.8 (nikah) and begin ch.9 (talaq)
  - "How to Edit Your Own Essay"

- 15) Thu 10/16 Primary text: Ibn Rushd on divorce
- Ibn Rushd, ch.9
  - Essay 2 final due

## UNIT 5 CRIMINAL LAW (*hudud* and *jinayat*) (#16-17)

- 16) Tue 10/21 Classical doctrine of *hudud* and *jinayat*
- Peters (*Crime and Punishment*), start ch.2 (6-38, classical doctrine of criminal law)
  - "Subject-Verb Agreement"
- 17) Thu 10/23 Classical doctrine, continued
- Peters (*Crime and Punishment*), complete ch.2 (38-66)
  - "Verb Choice"

## UNIT 6 FINANCE AND PROPERTY LAW (#18-20)

- 18) Tue 10/28 Qur'an and Sunna on Contract, Commerce and Finance
- Vogel & Hayes (*Isl Law and Finance*), ch.3 (53-69, Contract and Commerce)
  - Essay 3 draft due, on (Esposito ch.2 & Ibn Rushd Ch.8) or (Ibn Rushd chs.8-9) or (Peters ch.2)
- 19) Thu 10/30 Principles of Riba, Gharar, and Mal/Milk/`Ayn/Manfa`a
- Vogel & Hayes (*Isl Law and Finance*), ch.4 (71-95, Usury, Risk and Property)
  - "Verb Tense & Aspect"
- 20) Tue 11/4 Contracts: `Aqd/Shart, various types of contracts
- Vogel & Hayes (*Isl Law and Finance*), ch.5 (97-128, Contract)
  - "Verbs of Attribution"

## UNIT 7 INTERNATIONAL LAW (#21-22)

- 21) Thu 11/6 Classical jihad theory
- Peters (*Islam and Colonialism*), ch.2 (9-37, "The Classical Doctrine of Jihad")
  - Essay 3 final due
- 22) Tue 11/11 Ibn Rushd and Ibn Taymiyya on jihad
- Peters (*Jihad*), chs.4-5 (27-54, Ibn Rushd and Ibn Taymiyya on jihad)
  - "Clarity"

## UNIT 8 ISLAMIC LAW AND CONTEMPORARY CONCERNS (#23-28)

- 23) Thu 11/13 Themes: madhhab vs salaf; ethical principles vs positive law; taqlid vs ijtihad/bid`a
- Esposito, ch.4 (127-163, "Toward a Legal Methodology for Reform")
  - Nawawi, from ch.103-157 (on following a madhhab)
  - "Wordiness"

- 24) Tue 11/18 Contemporary perspectives on the *hudud*
- [http://theamericanmuslim.org/tam.php/features/articles/tariq\\_ramadan\\_calls\\_for\\_a\\_moratorium\\_on\\_corporal\\_punishment/](http://theamericanmuslim.org/tam.php/features/articles/tariq_ramadan_calls_for_a_moratorium_on_corporal_punishment/)
  - <http://www.islamopediaonline.org/fatwa/tariq-ramadan-calls-moratorium-stonings-and-executions>
  - Esposito, from ch.3 (47-92, family law reform across the Muslim world)
  - Essay 4 draft due, on readings for class #18-20 (Vogel & Hayes chs.3-5) or #21-22 (classical jihad)
- 25) Thu 11/20 Modern family law reforms
- Esposito, from ch.3 (93-111, overview of reforms, and 119-126, methodologies of reform)
  - "Colons and Semicolons"
- 26) Tue 11/25 Contemporary critiques of classical marriage law
- Ali (from *Progressive Muslims*), ch.7 (163-189, Marriage/Divorce Law)
  - "Passive Voice"

**THANKSGIVING BREAK (NO CLASS 11/27)**

- 27) Tue 12/2 Modern approaches to jihad
- Peters (*Jihad*), ch.8 (103-148, "The Doctrine of Jihad in Modern Islam")
  - Essay 4 final due
- 28) Thu 12/4 Muhammad Shaltut on jihad
- [primary text] Peters (*Jihad*), ch.7 (59-101, Shaltut on jihad)
- Last day of classes) Friday 12/5
- Essay 5 final due – no draft/revision option, on readings for class #23 (Esposito ch.4 and Nawawi) or #24-26 (Esposito ch.3 & Ali ch.7) or #27-28 (modern jihad)

**No final exam for this course.**