

**University of Toronto
Winter 2016**

<p>NMC385H1 - Introduction to Islamic Law Fridays, 10 a.m. – 12 p.m. Sidney Smith Hall, Rm. 2110</p>

Course Syllabus

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Course Description and Aims

This course introduces students to the history, politics, culture and theory of Islamic law, starting from the early 8th century, through to its development through what is often called the “classical period” (i.e. circa 9-14th centuries), and its reintroduction and application in the modern nation state setting. The readings are meant to provide substantive background for students as they listen to and engage each other via the lecture and discussion that occur in the classroom. However, the readings are not value-neutral; rather they present sites of contestation over the definition, purpose, and relevance of Sharia in the modern day. Consequently, part of the class lecture and discussion will concentrate on the various stakes at play when discussing contested issues in the history and politics of Islamic law.

Evaluation Scheme

Students will be evaluated based on their completion of written assignments, class participation, and final examination.

Written Assignments

There will be two written assignments during the course of the semester. Each written assignment will be comprised of a closed set of readings and should total no more than 2500 words per paper. Students will be required to analyze the readings in light of a series of questions posed in the assignment. Assignments will be distributed in class **ONLY**. All completed assignments must be submitted electronically **by 4 p.m. on the day the paper is due**. **ONLY ELECTRONIC SUBMISSIONS WILL BE ACCEPTED**. All papers should be emailed to Ms. Vanessa Zhang at <vanessaz.zhang@utoronto.ca>.

Each written assignment is worth 25% of the overall course grade, for a total of 50% of the overall grade.

Late submissions of written assignments, in the absence of serious extenuating circumstances (e.g. medical emergency), will be subjected to a penalty of 10% for each day they are late. Because the assignments are tied to the course material and progression of our discussion, no late submissions of written assignments will be accepted after 1 week of the indicated due date. In the event that extenuating circumstances are at issue, an appropriate form of documentation will be required (discuss with instructor on as needed basis).

Class participation, which constitutes 20% of the overall grade, will be evaluated in the following fashion:

- a. Regular attendance is assumed, and all written assignments and the final examination will reflect not only the materials covered but the class discussions as well. While regular attendance will not be taken, if you miss three classes or more, you should consider dropping the course.
- b. Students will be divided into groups at the first class meeting. Each week, one group will be required to post responses to the readings on Blackboard. Each member of the group will post his or her response onto Blackboard by 12 p.m. on the Thursday prior to our Friday class meeting. The response can focus on one article or more, but in all cases should do more than simply recount what the articles state. Responses will be evaluated for their analysis, critique, and for the questions posited for discussion. The group members will be “on call” for that week to help initiate discussion. Class participation for purposes of (b) therefore requires both posting on Blackboard and participation in class discussion.
 - a. No Late Submissions: Given the nature and pedagogical purpose of the written responses for Blackboard, no late submissions of class-participation responses will be accepted.

The Final Examination

The final examination will constitute 30% of the overall course grade. It will be a 24 hour take home examination that will test your comprehension of materials covered in the course and will reflect the themes brought out in class discussion. The examination will have a strict word count of 3000 words.

Graduate Student Evaluation Scheme

Graduate students (JD, MA, or PhD) will be evaluated pursuant to SGS grading policies on the materials outlined above.

[Accommodations for Disability: Students with diverse learning styles and needs are welcome in this course. In particular, if you have a disability/health consideration that may require accommodations given the above evaluative scheme, please feel free to approach me and/or Accessibility Services at (416) 978 8060; accessibility.utoronto.ca]

Electronic Devices in Class

You are welcome to take notes in class using traditional pen/paper, laptops or other such devices. No recording of lectures will be permitted, unless required for purposes of disability accommodation. Please discuss this matter with the instructor right away.

Required Reading Materials:

All readings posted to Blackboard, unless hyperlinked in the syllabus

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Readings & Assignments

Week 1 (Jan 15, 2016): Introduction: The Received Narrative

Week 2 (Jan 22, 2016): Islamic Law: Sources and Textuality

Cherif Bassiouni and Gamal M. Badr, "The Shari'ah: Sources, Interpretation and Rule Making," *UCLA Journal of Islamic and Near Eastern Law* 1 (2002): 135-181.

Amr A. Shalakany, "Islamic Legal Histories," *Berkeley Journal of Middle East and Islamic Studies* 1 (2008): 1-82.

Anver M. Emon, "Is ISIS Islamic? Why it Matters for the Study of Islam," *The Immanent Frame*. 2015. Available at: <http://blogs.ssrc.org/tif/2015/03/27/is-isis-islamic-why-it-matters-for-the-study-of-islam/>

[Qur'an, 3:2-8](#)

Case study on consumption of alcohol

Week 3 (Jan 29, 2016): On the Schools of Law and Whether/How They Matter (Group B)

George Makdisi, *The Rise of Colleges: Institutions of Learning in Islam and the West*. Edinburgh: Edinburgh University Press, 1981. PP. 1-9.

Anver M. Emon, "Huquq Allah and Huquq al-'Ibad: A Legal Heuristic for a Natural Rights Regime." *Islamic Law and Society* 13, no. 3 (2006): 325-391. (skip pp. 328-336; focus on the relation between legal doctrine and legal school, and whether/why the school differences matter).

Léon Buskens, "Recent Debates on Family Law Reform in Morocco: Islamic Law as Politics in an Emerging Public Sphere," *Islamic Law and Society* 10, no 1 (2003): 70-131 (focus on the reforms and the relation to Maliki law).

Week 4 (Feb 5, 2016): Interpreting and Adjudicating Islamic Law: Past and Present (Group C)

[Qur'an 3:7](#)

David Powers, *Law, Society and Culture in the Maghrib, 1300-1500* (Cambridge: Cambridge University Press, 2002), 23-52.

Anver M. Emon, "Ijtihad," *Oxford Handbook on Islamic Law*, eds. Anver M. Emon and Rumea Ahmed (forthcoming). DOI: 10.1093/oxfordhb/9780199679010.013.37

Amy Waldman. "Prophetic Justice." *The Atlantic*. October 2006.

First Paper Assignment – Handed out in class

**Week 5 (Feb 12, 2016): The Advent of Colonialism/Decline of Sharia (Group A)*
Guest Lecturer: Omar Sirri**

David Powers, "Orientalism, Colonialism and Legal History: The Attack on Muslim Family Endowments in Algeria and India," *Comparative Studies in Society and History* 31, no. 3 (July 1989), 535-571.

Michael Anderson, "Islamic Law and the Colonial Encounter in British India," in *Islamic Family Law*, eds. Chibli Mallat and Jane Connors (London: Graham and Trotman, 1989), 205-223.

First Paper Assignment Due – submitted via email

Feb 19– Class Cancelled (Reading Week)

**Week 6 (Feb 26, 2016): Islamic Law and the Modern State (Group B)
Guest Lecturer: Youcef Soufi**

Anver M. Emon, "Sharia and the Modern State." In *Islamic Law and International Human Rights Law: Searching for Common Ground?* Eds. Anver M. Emon, Mark Ellis and Benjamin Glahn (Oxford: Oxford University Press, 2012).

Susan F. Hirsch, "Islamic Law and Society Post-9/11." *Annual Review of Law and Social Science* 2 no. 1 (2006): 165-186.

Natasha Bakht. "Were Muslim Barbarians Really Knocking on the Gates of Ontario: The Religious Arbitration Controversy - Another Perspective." *40th Anniv. Ed. Ottawa L. Rev.* 67 (2006): 67-82.

Week 7 (March 4, 2016): Islamic Law and Constitutionalism (Group C)

Nathan J. Brown, *Constitutions in a Nonconstitutional World: Arab Basic Laws and the Prospects for Accountable Government* (Albany: State University of New York Press, 2002), 161-193.

Killian Balz, "The Secular Reconstruction of Islamic Law: Egyptian Supreme Constitutional Court and the 'Battle Over the Veil' in State-Run Schools," in *Legal Pluralism in the Arab World*, eds. Baudouin Dupret et al (The Hague: Kluwer Law International, 1999), 229-243.

Constitutions of Iran and Iraq

Week 8 (March 11, 2016): Gender, Politics and Islamic law (Group A)

Islam and Feminism, Issue 1 of *Contestations: Dialogues on Women's Empowerment* (also available at: <http://www.contestations.net/wp-content/uploads/2011/01/contestations1.pdf>)

Ziba Mir-Hosseini. "The Construction of Gender in Islamic Legal Thought and Strategies for Reform." *Hawwa* 1, no. 1 (2003): 1-31.

Ziba Mir-Hosseini, "How the Door of Ijtihad was Opened and Closed: A Comparative Analysis of Recent Family Law Reforms in Iran and Morocco," *Washington and Lee Law Review* 64, no 4 (2007): 1499-1511.

Qatar Family Law Code, 2006

Second Paper Assignment: Handed out in Class

Week 9 (March 18, 2016): Islamic Law and Human Rights (Group B)

Ruud Peters, "Islamic Law and Human Rights: a contribution to an ongoing debate," *Islam & Christian Muslim Relations* 10, no 1 (1999): 5-14.

Nehal Bhuta, "Rethinking the Universality of Human Rights: A Comparative Historical Proposal for the Idea of 'Common Ground' with Other Moral Traditions." In *Islamic Law and International Human Rights Law: Searching for Common Ground?* Eds. Anver M. Emon, Mark Ellis, and Benjamin Glahn. 123-143. Oxford: Oxford University Press, 2012.

Second Paper Assignment Due March 24 – submitted via email

March 25 – Class Cancelled for University Holiday

Week 10 (April 1, 2016): Islamic Law and Muslim Minorities: Muslim Family Arbitration (Group C)

Anver M. Emon. "Islamic Law and the Canadian Mosaic: Politics, Jurisprudence, and Multicultural Accommodation." *Canadian Bar Review* 87, no. 2 (February 2009): 391-425.

Julie MacFarlane, "Practising an 'Islamic Imagination': Islamic Divorce in North America," in *Debating Sharia: Islam, Gender Politics and Family Law Arbitration*, eds. Anna C. Kortweg and Jennifer A. Selby (Toronto: University of Toronto Press, 2012), 35-65.

Taha Jabir Alalwani, "Toward a Fiqh for Minorities: Some Basic Reflections," Occasional Papers Series, 2nd ed. (Washington, D.C.: IIIT, 2010).

Week 11 (April 8, 2016): Review Class