

LAW 7371  
Introduction to Islamic Law  
Fall 2021

Thursday: 6:05-7:45 pm  
276 Myron Taylor Hall

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This course will introduce law students to the terminology, principles, and concepts of classical Islamic law. After discussing the origins and development of the Islamic legal system, we turn first to the organization of qadi courts (procedure and evidence) and then to specific areas of the law, e.g., personal status (marriage and divorce), the intergenerational transmission of property (bequests, gifts, endowments), interdiction, paternity, adoption, illicit sexual relations, and slander. We will analyze the application of legal doctrine to actual disputes through the reading of expert judicial opinions or *fatwas* (in English translation) issued in connection with medieval and modern court cases. No prerequisites.

### **Course Requirements**

10% = attendance and class participation (attendance at first class is mandatory)

10% = short written summary (2-page maximum) of five of the nine journal articles on syllabus, beginning Week 3 (9/9). Each submission should end with a brief assessment of the article or comparison to American law.

30% = a judicial opinion, based on *Mi'yar*, 9:261-6: 'A'isha v. Maryam and Abu 'Ali, due in class on October 14.

50% = a final, take-home essay covering the semester's work, due on December 9.

### **Required Texts**

Dawood, *The Koran* (Penguin): \$12.00

Hallaq, *An Introduction to Islamic Law* (Cambridge): \$34.00 (available on Amazon in addition to Cornell Store)

Ruthven, *A Very Short Introduction to Islam* (Oxford): \$12.00

## ASSIGNMENTS [“C” = CANVAS]

8/26: Introduction: Muhammad and the Rise of Islam

- 1 Ruthven, *Islam: A Very Short Introduction* (all);
- 2 Koran, Chapter 4 (“Women”) and Chapter 33 (“Confederates”)
- 2 Assignment for next week: Qur’an: Brainteasers (C)

9/2: The Quran: Constitutional Foundations

- 1 Re-read: Koran, Chapters 4 and 33; hand in answers to Brainteasers
- 2 Hallaq, *Introduction*, 1-30, 85-103
- 3 Rosen, *Justice*, 176-86 (C)
- 4 **Read ahead for next week:** Casebook chapter: Procedure (C)

9/9: The Rise of the Judiciary; Procedure and Evidence

- 1 Casebook chapter: Procedure (C) -- review
- 2 Casebook chapter: Evidence (C)
- 3 Hallaq, *Introduction*, 31-56
- 4 Brinkley Messick, “Evidence: From Memory to Archive,” *Islamic Law and Society*, 9:2 (2002), 231-70 [C]

9/16: **Yom Kippur: no class; makeup class on day/time to be determined**

9/23: Marriage

- 1 Casebook: Marriage chapter (C)
- 2 Hallaq, *Introduction*, 57-82
- 3 Rosen, *Justice*, 3-23, 24-37 (C)
- 4 Ron Shaham, “Custom, Islamic Law, and Statutory Legislation: Marriage Registration and Minimum Age of Marriage in the Egyptian Shari`a Courts,” *Islamic Law and Society*, 2:3(1995), 219-57 [C]

9/30: Divorce

- 1 Casebook: Divorce chapter (C)
- 2 Hallaq, *Introduction*, 115-39
- 3 Moussa Abou Ramadan, "Divorce Reform in the Shari'a Court of Appeals in Israel (1992-2003)," *Islamic Law and Society*, 13:2 (2006) [C]

10/7: Interdiction: Parents and their Minor Children

- 1 Casebook: Guardianship) (C)
- 2 *Mi'yar*, vol. 9: 261-6: 'A'isha v. Maryam and Abu 'Ali, 1-9 (C)
- 4 Oussama Arabi, "The Interdiction of the Spendthrift (*al-Safih*): A Human Rights Debate in Classical *Fiqh*," *Islamic Law and Society*, 7:3 (2000), 300-24 [C]

10/14: Movie: "Divorce, Iranian Style"

- 1 Sherman Jackson, "Kramer Versus Kramer in a tenth/sixteenth Century Egyptian Court: Post-Formative Jurisprudence Between Exigency and Law," *Islamic Law and Society*, 8:1 (2001), 27-51 [C]
- 3 **Writing Assignment:** Judicial opinion: *In re* A'isha v. Maryam and Abu 'Ali, **due in class**

10/21: Paternity

- 1 *Mi'yar*, vol. 10: 361-7: Salim v. The Family of 'Ali b. Abi al-Ula', 1-12 (C)
- 2 Rosen, *Justice*, 85-110 (C)
- 3 Daniel Pollack, Moshe Bleich, Charles J. Reid, Jr., and Mohammad H. Fadel, "Classical Religious Perspectives of Adoption Law," *Notre Dame Law Review*, 79 (2003-2004), 693-753, at 732 ff. [C] – summarize only the section on Islam!

10/28: Inheritance and Avoiding Inheritance

- 1 Casebook: Inheritance (C)
- 2 Casebook: Avoiding Inheritance (C)
- 3 *Mi'yar*, vol. 6: 83-88: Heirs of 'Uthman ibn al-Hasan v. al-Nasiri, 1-8 (C)

- 4 *Mi'yar*, vol. 10: 383-9: Older Children of Abu Abdallah Muhammad v. Younger Children, 1-14 + diagram (C)
- 5 Eli Alshech, "Do Not Enter Houses Other Than Your Own": The Evolution of the Notion of a Private Domestic Sphere in Early Sunni Islamic Thought," *Islamic Law and Society*, 11:3 (2004), 291-332 [C]

#### 11/4: Endowments

- 1 Casebook: Avoiding Inheritance (section on Waqf Law ) (C)
- 2 Fadel, "Fiduciary Principles" (C)
- 3 *Mi'yar*, vol. 7: 311-21: Family of Ibn Khannusa v. Family of al-Zarhuna, 1-20 + Chart and Table (C)
- 4 Hiroyuki Yanagihashi, "The Doctrinal Formation of "*Marad al-Mawt*" in the Formative Period of Islamic Law," *Islamic Law and Society*, 5:3 (1998), 326-58 [C]

#### 11/11: Slander of the Prophet (*sabb al-nabi*)

- 1 *Mi'yar*, vol. 2, 540-5: Abu al-Faraj v. Ahmad b. Isa al-Battiwi, 1-25 (C)
- 2 Rosen, *Justice*, 187-99 (C)
- 3 Anver Emon, "*Huquq Allah* and *Huquq al-'Ibad*: A Legal Heuristic for a Natural Rights Regime," *Islamic Law and Society*, 13:3 (2006), 325-91 [C]

#### 11/18: Illicit sexual relations (*zina*)

- 1 *Mi'yar*, vol. 4: 493-509: Anonymous v. Musa al-Haskuri, 1-28 + Chart (C)
- 2 Rosen, *Justice*, 69-82 (C)
- 3 Hallaq, *Introduction*, 140-170

#### 11/25: **Thanksgiving: No Class**

#### 12/2: Back to the Qur'an

- 1 Koran, chapter 4 ("Women"), verses 11, 12, and 176; review "brain teasers" from Week 2
- 2 Rosen, *Justice*, 200-15 (C)