

Islamic Law
CAS RN 345, GRS RN 645, STH TX 845
Prof. Kecia Ali
Spring 2015

MWF 12-1, Religion Department, 145 Bay State Rd. #404
Office hours: Monday 2-3, Wednesday 9-10 and 1-2; (145 Bay State Rd., #402)
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Email is the best way to reach me. Please allow 24 hours for a response. For significant substantive queries, plan to come to office hours (first-come, first served) or, if you are unable to meet during office hours, make an appointment by email to meet at another time.

Course description

Islamic law is both very important and very poorly understood. This course will cover its development, concepts, and methods as well as its implementation in diverse societies over more than a millennium, also addressing its place in the world today. We will begin discussing notions of law – what law is and how Islamic law compares to other legal systems. We will discuss the early development of Islamic law, its sources and methods, its division into legal schools, and its application in a variety of places and times including the central Arab lands during the Abbasid caliphate, the Ottoman empire, and the Middle East and North Africa under European colonial rule. We will see that far from being monolithic, Islamic law is diverse in both theory and practice. As we look at doctrines and implementation of Islamic law, we will focus on purity rules, "forbidding wrong," jihad, and family law in the classical, medieval, Ottoman, and modern eras, up to the present day.

Course Requirements and Grading:

Undergraduate students: *There are five components to this course's requirements: Class attendance and participation (10%), ten weekly response papers (15%), two quizzes (12.5% each), a fatwa assignment (20%), and a final exam (30%).*

1) Class attendance and participation are vital. It is necessary that you attend each class session, having read the assigned text and being prepared to discuss it. A lot of our learning will take place in the classroom, working with primary texts. Course participation will account for 10% of your grade, though excessive absences may cause further deduction.

2) Weekly response papers, one single-spaced page, on that week's assigned reading. You must submit ten over the course of the semester. You may choose which weeks to submit them. These

should not just be summaries of the reading. They should contain a *brief* (no more than one-third page) summary of the essential arguments of the reading but also raise key questions, comparative issues, and address your reflections on the text. These are to be deposited in the Blackboard digital dropbox by 11:59 p.m. on Sunday night (Monday night when Tuesday is a BU Monday) so that I can read them before our first class of the week. **LATE RESPONSES WILL NOT BE ACCEPTED FOR CREDIT.** Mysteriously missing documents will be treated as not having been submitted. If you use a Macintosh, please submit your responses in PDF format. If you use a PC, either Word or PDF is fine. Together, these will account for 15% of your grade.

3) An oral and written presentation of a fatwa (legal opinion) on a topic of your choice, along with a written reflection on other students' fatwas, will be worth 20% of your grade. Guidelines will be distributed and a sign-up sheet posted in late February. Presentations will occur the week of 3/16. It is necessary that you attend all three days that week in order to complete the assignment.

4) Two non-cumulative quizzes, on 2/20 and 4/3, will each account for 12.5% of your grade.

5) A final exam, held in accordance with the University calendar will comprise 30% of your grade.

Graduate students: Graduate students will be graded on attendance/participation (10%), ten weekly response papers (of *two single-spaced pages* rather than one) (15%), two quizzes (10% each), a fatwa presentation (15%), and a research paper (40%). Guidelines for research papers, due 5/1 at 5 pm, will be posted on Blackboard.

Policy on Late Work and Incompletes:

Late work will be penalized up to one complete letter grade for each day overdue (including weekends and holidays). *Weekly response papers will not be accepted late for credit.* Paper extensions will be granted only in exceptional circumstances, and in no case after the original deadline for completion has passed. Students who anticipate difficulty in meeting deadlines should contact me as far in advance of the due date as possible. A course grade of incomplete will only be granted in cases of documented medical emergency or for an equally compelling reason.

Disabilities:

In accordance with University policy (see <http://www.bu.edu/disability/policies/index.html>), a student who requires accommodation for a documented disability of any type should meet with me as soon as possible to discuss appropriate modifications to course requirements or procedures. I strive to make my classroom disability-friendly. The more clearly I understand what will be helpful, the better I can do that.

Academic Integrity:

Every student is expected to be familiar with and comply with the BU policy on academic integrity, which can be found at: <http://www.bu.edu/cas/undergraduate/conductcode.html>. I will refer any suspected case of academic misconduct to the Dean's Office. Any assignment judged, after a hearing by the Academic Conduct panel, to be plagiarized will receive a grade of "0." We will discuss plagiarism and independent work in class.

Helpful resources about proper use of sources can be found many places online. About using sources responsibly (and avoiding plagiarism), see the "Harvard Guide to Using Sources" (<http://usingsources.fas.harvard.edu/icb/icb.do>) and Dartmouth's RWIT page (<http://writing-speech.dartmouth.edu/learning/materials/sources-and-citations-dartmouth>). The Purdue University Online Writing Lab (<https://owl.english.purdue.edu/owl/>), contains excellent advice on research and citation but also on broader topics including "Conducting Research" (<https://owl.english.purdue.edu/owl/section/2/8/>). These will be especially helpful during the writing of your research papers.

Course texts:

Books are available for purchase at the bookstore and on reserve at the library. Some may also be available through BU Library's electronic resources.

Although I have made an effort to include only books available in paperback for a reasonable price, the total cost of these texts may be prohibitive. I urge you to seek out used editions (several of these titles should be widely available), to purchase them from alternate sources, or to use library reserves. Whether you work from your own copy or a library copy, be sure to take good notes.

Please be sure to bring your book and/or notes to class the day we are going to be discussing it – this is especially important when we discuss the cases in Nawawi, Kelsay, and Tucker, but it also holds true for Cook, Shaham, and Hallaq. Additional readings will be posted on Blackboard.

Wael B. Hallaq, *An Introduction to Islamic Law* (Cambridge: Cambridge University Press, 2009)

Graduate students should, and others may, consult Hallaq's more in-depth survey: *Islamic Law: Theory, Practice, Transformations* (Cambridge: Cambridge University Press, 2009).

Ron Shaham, *The Expert Witness in Islamic Courts: Medicine and Crafts in the Service of Law* (Chicago: University of Chicago Press, 2010)

John Kelsay, *Arguing the Just War in Islam* (Cambridge, MA: Harvard University Press, 2007)

Nuh Ha Mim Keller, editor and translator, *Nawawi's Maqasid*, rev. ed. (Beltsville, MD: Amana Publications, 2002).

Michael Cook, *Forbidding Wrong in Islam* (Cambridge: Cambridge University Press, 2003)

Judith Tucker: *In the House of the Law: Gender and Islamic Law in Ottoman Syria and Palestine* (Berkeley: University of California Press, 1998).

Course schedule

Week 1 Introduction

Hallaq, Introduction, Chapter 1, pp. 1-13.

W 1/21 Introduction – defining *Islamic Law*, syllabus, course expectations
F 1/23 The Legal Subject

I. The Formative Period

Week 2

Hallaq, Chapters 2-3, pp. 14-37; Nawawi, Purification, pp. 12-31

M 1/26 Legal theory: from sources to law
W 1/28 Qur'anic legislation and hadith: Shafi'i's legal hermeneutics
F 1/20 Ablutions

Week 3

Nawawi, Prayer, Zakat, Fasting, pp. 32-84 (optional: Pilgrimage, pp. 85-94).

M 2/2 Prayer
W 2/4 Zakat
F 2/6 Fasting

Week 4

Kecia Ali, *Imam Shafi'i: Scholar and Saint* (Oxford: Oneworld, 2011), Chapters 3-5, pp. 47-96

M 2/9 Shafi'i's legal theory
W 2/11 Legal disagreement and substantive law
F 2/13 Case study: consent to marriage
Review sheet distributed

II. Legal Schools – Rulers and Scholars

Week 5

Hallaq, Chapter 4, pp. 38-56; Cook, Chapters 1-9, pp. 1-110.

T 2/17 The role of scholars
W 2/18 Forbidding wrong – defining a duty, defining “law”
F 2/20 Quiz 1

Week 6

Kelsay, Intro, Chapters 1-3, pp. 1-124; Masud, Messick, and Powers, "Muftis and their Fatwas"

T 2/23 Revisiting the sunnah: Muhammad's authoritative conduct
 Fatwa presentation guidelines handed out; sign-up sheet available
W 2/25 Source interaction, abrogation, and historical context
F 2/27 Defensive jihad

Week 7

Kelsay, Chapters 4-6, pp. 125-255

M 3/2 Offensive jihad and conduct in war
W 3/4 Fatwas, muftis, and modern notions of religious authority
F 3/6 Fatwa on slavery/ISIS

III. Fatwas

Week 8

No new readings

M 3/16 Fatwa presentations
W 3/18 Fatwa presentations
F 3/20 Fatwa presentations

IV: Court systems: women, men, and experts

Week 9

Hallaq, Chapter 5, pp. 57-71; Shaham, Introduction, Chapters 1- 3, pp. 1-98

M 3/23 Courts and court systems
W 3/25 Witnesses, male and female
F 3/27 Sexuality

V. The Ottoman Era: Courts and Family

Week 10

Hallaq, Chapter 6, pp. 72-82, Tucker, Chapters 1-4

M 3/30 Marriage and divorce
W 4/1 Parenthood
F 4/3 Quiz 2

VI. Islamic Law and Modernity

Week 11

Tucker, Ch. 5, Hallaq, Chapters 7-8, pp. 85-139; Optional: Shaham, Chapters 4-5, Conclusion, pp. 99-153.

M 4/6 Sexuality II
W 4/8 Colonialism
F 4/10 Legal reform: Egypt

Week 12 Gender and Islam

Shaham, Chapter 6, pp. 154-94; Cook, Chapters 11-13, pp. 111-71.

M 4/13 DNA and modernity
W 4/15 Guest lecture
F 4/17 Forbidding wrong in modern times

Week 13

Hallaq, Chapter 9, Conclusion, pp. 140-170; An-Na'im, "Introduction" to An-Na'im, ed., *Islamic Family Law*; Kecia Ali, "Progressive Muslims and Islamic Jurisprudence."

W 4/22 The idea of Islamic family law
F 4/24 Feminist critiques of the law

Week 14

Readings TBD

M 4/27 Creeping shariah and Islamophobia
W 4/29 Review

F 5/1 5 p.m. Graduate student papers due in Prof. Ali's box, second floor

Final exam held in accordance with university exam schedule