

Instructor: Elias G. Saba

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Office Hours: T 9:00am–11:00am

F 1:00pm–2:30pm

HIS/REL 285-01: Islamic Law in Theory and Practice

Course Description

This course will use the work of 12th century Andalusí scholar Ibn Rushd (Averroes) as a window into the theory and historical practice of Islamic law, often called shari'a. We will cover a range of related topics, including criminal law, dietary law, the law of war, the place of public and private institutions in Muslim societies historically, how Muslim communities have debated questions of gender, and the contested place of religion in modern societies.

This class has three main components. First, the theory: we will spend the first half of this course grappling with selections from Ibn Rushd's text. We will see how Muslim jurists read source texts, how they extrapolate specific laws from general statements in the Quran and the examples of the Prophet Muhammad, and how they deal with disagreement.

Next, the practice: we will look at a variety of ways that this book law was applied and lived in different contexts, modern and premodern. How did individuals and societies relate to this law? In these contexts, we will also consider whether it makes sense to call Islamic law a religion law. What is gained and what is lost by saying that Islamic law is not religious?

Finally, while we do all of this, we will also be developing independent research projects on Islamic law. These projects will accompany us throughout the term and will (hopefully) enrich your understanding of the readings and our class discussions.

Course Requirements:

This is a seminar course. It is imperative that each student carefully reads all of the assigned readings on time and comes to class ready to participate in discussion. We will learn to read and interpret legal argumentation. This will require you to closely read difficult texts and attempt to understand the rational progression of the argument. Class preparedness and participation is a major factor in the final grade and unexcused absences will count against this final grade.

This class is centered around a final research paper. This paper will involve researching one aspect of Islamic law broadly construed (a-2 (i)-IT0nt 0nt irT0ntc you wi iT0ntelates in some way 0ntslamic law). This 0ntc will be chosen in consu (i)-ltation wi(i)-l i instructor, r ire are several scaffolding assig (i)-aments 0ntT0ntead 0nt i final paper. Ir(i)-lion, (i)-l f-2 (T0nt)-2wa analysis serve as part of the work of the final paper.

You are also required to meet with your writing mentor twice. One time for one of the first two assignments and again to talk about your paper proposal. You are encouraged to meet with them more than this.

Grading

• Paper 1 short (Class 5)	10%	100-94 = A	79-77 = C+
• FatwaAnalysis (Class 10)	10%	93-90 = A-	76-74 = C
• Paper Proposal (Class 14)	5%	89-87 = B+	73-70 = C-
• Peer Review (Class 30)			

WF 10:00–11:20AM

*9/2 Class 3 The Sources of Islamic Law

- Vikør, Ch. 3, “The Koran and Sunna as Sources,” Ch. 4 “Elaborating the Sources: *Qiyās* and *Ijtihād*,” and Vikør, Ch. 5 “Getting Social Sanction: *Ijmā* and Authorization,” 31–88.

Substantive Law

*9/7: Class 4 Torts – [Paper 1 Due]

- P. Keeton, et al. *Tort and Accident Law: Cases and Materials* (St. Paul: West, 1983), 1-24. (pweb)
- Vikør, selection from Ch. 14, “Criminal Law,” 287-290.

*9/9: Class 5

- Ibn Rushd, *The Distinguished Jurist’s Primer*, 2 vols. tr. I.A.K. Nyazee (Reading: Garnet Press, 1994), II: 478-500.

*9/14: Class 6: Torts (contd.)

- Ibn Rushd, II: 500-521.

*9/16: Class 7: Crimes

- J. Kaplan, R. Weisberg, *Criminal Law: Cases and Materials* (Boston: Little, Brown and Company, 1986), 3-27.
- Vikør, the rest of ch. 14, 280-298 [SKIM]
- OPTIONAL : Intisar Rabb, “Introduction” to *Doubt in Islamic Law: A History of Legal Maxims, Interpretation, and Islamic Criminal Law* (Cambridge: Cambridge University Press, 2015), 1-22. [link](#)

*9/21: Class 8 Class 9 Crimes (contd.)

- Ibn Rushd, II: 521-536.
- OPTIONAL : Intisar Rabb, “Introduction” to *Doubt in Islamic Law: A History of Legal Maxims, Interpretation, and Islamic Criminal Law* (Cambridge: Cambridge University Press, 2015), 1-22. [link](#)

*9/23: Class 10 Crimes (contd.) Fatwa Analysis Due

- Ibn Rushd, II: 536-552.
- OPTIONAL : Intisar Rabb, “Introduction” to *Doubt in Islamic Law: A History of Legal Maxims, Interpretation, and Islamic Criminal Law* (Cambridge: Cambridge University Press, 2015), 1-22. [link](#)

*9/28: Family Law

- Ibn Rushd, II: 1-25.
- Vikør, Ch. 15, “Family Law,” 299-325.

*9/30: Class 11 Family Law (contd.)

- Ibn Rushd, II: 71-97.

Ritual Purity

*10/5: Class 12 Ritual Purity

- Ibn Rushd, I:1-25.
- OPTIONAL : Kevin Reinhart, "Impurity/No Danger," History of Religions 30 (1990), 1-24. [link](#)

Jihad

*10/7: Class 13: Family Law (contd. Paper Proposal due]

- Ibn Rushd, I: 454-487.
- OPTIONAL : Paul L. Heck, "Jihad' Revisited" The Journal of Religious Ethics 32.1 (2004): 95-128. [link](#)

Commercial Transactions

*10/12: Class 14

- Ibn Rushd, II: 153–72

*10/14: Class 15

- Ibn Rushd, II: 203–19.
- Vikør, Chapter, 16, Economy, Taxes and Property, 326-344.

Topics and Issues in Islamic Law

Public Institutions

WF 10:00–11:20AM

HSSC N3111

*11/11: Class 21

