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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 (Averroës) 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 Muḥammad, 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 class 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 (that is, on any topic you wish that relates in some way to Islamic law). This topic will be chosen in consultation with the instructor, and there are several scaffolding assignments that lead to the final paper. In addition, the fatwa analysis *may* 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.

Writing Mentors

This class is *trebly blessed* by the presence of three writing mentors: Ashton Aveling, Gyana Singh, and Kathryn Stender. As your writing mentors, they are a resource for you in completing (and revising!!) your writing assignments. Each student will be assigned to work with one writing mentor. You are required to meet with your mentor for **one of the first two** assignments. You must also discuss your paper proposal with them (either before or after submission). You will, however, have the option of meeting with your assigned writing mentor prior to or after handing in any of the written assignments. I cannot encourage you enough to meet with them. Please attend all meetings with your writing mentor ready to discuss your work – this means bringing an outline, some ideas written down, or even just a thesis statement. I will remind you of this throughout the semester. The goal of the writing mentor is to help you *develop* and *refine* your writing, not to create your writing or grade it. Please do not abuse their time.

Grading

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|-----------------------------|-----|
| • Paper 1 short (Class 5) | 10% |
| • Fatwa Analysis (Class 10) | 10% |
| • Paper Proposal (Class 14) | 5% |
| • Peer Review (Class 30) | 5% |
| • Presentation | 5% |
| • Final Project | 35% |
| • Participation | 30% |

Learning Outcomes

Through this course, students will:

- Develop the ability to approach a scholarly topic/question from multiple perspectives that encompass a diversity of ideas and experiences.
- Learn how to read and understand Islamic legal texts.
- Identify and evaluate the claims and evidence of primary and secondary sources.
- Articulate appropriately specific research problems or questions.
- Improve their written communication by crafting essays and responding to instructor feedback.
- Improve their oral and visual communication, through formal presentations, collaborative learning, digital media, and class discussion.

Course Policies:

- You are expected to attend (participate in) every class. Two or more unexcused absences will have a negative impact on your final grade. Grinnell College offers

alternative options to complete academic work for students who observe religious holy days. Please contact me within the first week of the semester if you would like to discuss a specific instance that applies to you. Class preparedness and participation is a major factor in the final grade and unexcused absences will count against this final grade. Missing more than 30% of the class discussions with unexcused absences will result in a failing grade.

- Because I value your success as a student at Grinnell, I do not hesitate to reach out to our Academic Advising staff if I suspect you may be experiencing difficulties. For instance, if you unexpectedly miss more than one class in a row, do not turn in an assignment, or fail an assignment or exam, I will submit an academic alert using the college's [SAL system](#). I will do my best to notify you ahead of submitting an alert but may need to act quickly depending on the circumstances. [Although I will try to contact you in advance, this statement itself serves as a notification as well]. The academic alert is a way for us to use the university's many resources, including trained professionals on campus, to work with you (and me, perhaps) to address these issues and to ensure your ultimate success. You are always welcome to reach out to me if there is a significant issue impacting your learning, and I will be happy to help you connect directly with campus resources.
- Please send all e-mail to [\[sabaelia\]](#). During the week, I will respond to within 24 hours. It may take longer to respond during the weekend. Feel free to send any questions you may have about the course, although I rather discuss substantive issues in person rather than via e-mail. Barring extraordinary disruptions to our semester, I do not respond to e-mail after 8:00pm Central. It's good to take some time for yourself.
- Breaches of academic integrity will result in an official disciplinary process guided by the Dean's office. If you have questions about the Academic Honesty policy, please consult Academic Honesty The College's Academic Honesty policy is located in the Student Handbook available online [here](#). The College expects that students are aware of and meet the expectations of this policy. Assignments in this course are not collaborative. If you have any questions, please see me before you turn in your work.
- Class discussion can only thrive within an environment of openness and respect. This means respecting our classmates, the people about whom we read, and our authors (in this order, normally). I do not expect you to agree with all of our authors or each other, but it is important to take everyone seriously. In addition, I strongly request that you do not share material from our class discussions or videos publicly.
- The College supports students' efforts to meet both class obligations and religious ones. If you plan to observe religious holidays that coincide with class meetings or assignment due dates, please meet with me during the first two weeks of

classes so that we may reach a mutual understanding of how you can meet these obligations.

- In order to create a fully inclusive classroom, I welcome students to approach me about distinctive learning needs. In particular, I encourage students with disabilities to have a conversation with me and disclose how our classroom or course activities could impact the disability and what accommodations would be essential. You will also need to have a conversation about and provide documentation of your disability to the Coordinator for Disability Resources, Jae Hirschman [[hirschma](#)].

Required Books:

- Knut Vikør, *Between God and the Sultan* (Oxford: Oxford University Press, 2005).

Tentative Schedule:

Introductions

4/1 Class 1: Introduction to the class, how to think about studying law and legal systems

- **OPTIONAL:** Joseph E. Lowry, “What is Islamic Law? How Should We Study It?,” *Islamic Law Blog*, December 31, 2020. [[link](#)]

Overview of the History of Islamic Law

4/2 Class 2: Introduction to Islam, Islamic Society, and Islamic Law

- Vikør, Preface + Introduction, v-vii + 1-19.
- Vikør, Ch. 2, “From Practice to Method,” 20-30.

4/5 Class 3: The Sources of Islamic Law

- Vikør, Ch. 3, “The Koran and *Sunna* as Sources,” and Ch. 4 “Elaborating the Sources: *Qiyās* and *Ijtihād*,” 31–72.

4/6 Class 4: The Sources of Islamic Law (contd.)

- Vikør, Ch. 5 “Getting Social Sanction: *Ijmā‘* and Authorization,” 73-88.

Substantive Law

4/7 Class 5: **Torts** – [Paper 1 Due]

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

4/8 Class 6: Torts (contd.)

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

4/9 Class 7: Torts (contd.)

- Ibn Rushd, II: 500-521.

4/12 Class 8: **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](#)]

4/13 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](#)]

4/14 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](#)]

4/15 Class 11: **Family Law**

- Vikør, Ch. 15, “Family Law,” 299-325.

4/16 Class 12: Family Law (contd.)

- Ibn Rushd, II:1-25.

4/19 Class 13: Family Law (contd.)

- Ibn Rushd, II:71-97.

4/20 Class 14: Family Law (contd.) [**Paper Proposal due**]

- Film: “Divorce Iranian Style.” [[link](#)]

Ritual Purity

4/21 Class 15: Ritual Purity (contd.)

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

4/22 Class 16: Ritual Purity (contd.)

- Ibn Rushd, I: 67-93.

4/23 Class 17: **Dietary Rules**

- Ibn Rushd, I: 563-578

4/26 Class 18: **Jihad**

- Ibn Rushd, I: 454-473.
- **OPTIONAL:** Paul L. Heck, “‘Jihad’ Revisited,” *The Journal of Religious Ethics* 32.1 (2004): 95-128. [[link](#)]

4/27 Class 19: Jihad (cont.)

- Ibn Rushd, I: 473-487.
- **OPTIONAL:** Paul L. Heck, “‘Jihad’ Revisited,” *The Journal of Religious Ethics* 32.1 (2004): 95-128. [[link](#)]

4/28 Class 20: **Commercial Transactions**

- Vikør, Chapter, 16, Economy, Taxes and Property, 326-344.
- Ibn Rushd, ii, 198-202 (prohibited transactions).
- Ibn Rushd, ii, 260-263 (the *‘arīyah* sale).
- Ibn Rushd, ii, 397-404 (gifts).

Topics and Issues in Islamic Law

4/29 Class 21: **Public Institutions**

- Joseph E. Lowry, “Institutions” in *Key Themes in the Study of Islam*, ed. Jamal J. Elias, 200-219. [[link](#)]
- Robert Gleave, “Shī‘ī Law/Islamic Law: Some Category Problems,” *Islamic Law Blog*, December 10, 2020. [[link](#)]

4/30 Class 22: Public Institutions (cont.)

- Vikør, Ch. 8, "The Court and the Law: *Muftīs* and Legal Development," and Vikør, Ch. 9, "The Court and its Judge: the Role of the *Qāḍī*," 140-184.

5/3 Class 23:

- Vikør, Ch. 10, "The Court and the State," 185-205.
- “Studying a Lived Law: An Interview with Yossef Rapoport,” *Islamic Law Blog*, December 15, 2020. [[link](#)]

5/4: Class 24 Public Institutions (cont.)

- Wael Hallaq, *Sharī‘a: Theory, Practice, Transformations* (Cambridge: Cambridge University Press, 2009), 197-222. [[link](#)]

5/5: Class 25: **SPECIAL GUEST!!**

- Alan M. Guenther “A Colonial Court Defines a Muslim,” in *Islam in South Asia in Practice*, ed. Barbara D. Metcalf. (Princeton: Princeton University Press, 2009), 293–304. [[link](#)]
- Excerpts from al-Jabarti and Gangohi in *The Norton Anthologies of World Religions: Islam*, edited by Jane Dammen McAullife. New York: Norton, 2015: 518–526; 539–541.

Private Institutions

5/6 Class 26:

- Vikør, Ch. 6, "The Four Schools of Law," 89-113.

5/7 Class 27: Private Institutions (contd.)

- Vikør, Ch. 7, "Law Beyond the Four Schools," 114-139.

5/10, Class 28: **Gender** [Read only one, to be assigned by instructor]

- P. Sanders, "Gendering the Ungendered Body: Hermaphrodites in Medieval Islamic Law," in: N. Keddie, B. Baron eds., *Women in Middle Eastern History: Shifting Boundaries in Sex and Gender* (New Haven: Yale University Press, 1991), 74-95.
- J. Skovgaard-Petersen, *Defining Islam for the Egyptian State* (Leiden: E.J. Brill, 1997), 319-334.

5/11, Class 29:

- Vikør, Ch. 11, "Law and Courts in the Ottoman Empire," Ch. 12, "Islamic Law in the Modern Period," and Conclusion, 206-253, 345-347.

5/12, Class 30:

- Research and Writing Day

5/13, Class 31:

- Peer Review

5/14, Class 32:

- Research and Writing Day

5/17, Class 33:

- Presentations
 - David Gales, Erin Ritter, Ben Mikek, Prescott Miller

5/18, Class 34:

- Presentations
 - Kiran Loewenstein, Eliza Meyer, Krissy Redding, Abby Hanson

5/19, Class 35:

- Presentations
 - Kayley Rönnkvist, Christian Stephens, Ailsa Schmidt, Connor Headrick

5/20, Class 36:

- Presentations
 - Sophia Bern, Travis Sloffer, Julia Yoo, Aranya Deng