

DEPARTMENT OF POLITICAL SCIENCE**Introduction to Egyptian and Islamic Law (POLS 4375): Fall 2020****Dr. Nesrine Badawi****Email: nbadawi@aucegypt.edu****Classes Held: MR 11:30-12:45 am****Office Hours: MR: 1:00-2:30 (But you need to book an appointment 24 hours in advance)****Office: Huss 2013, Ext: 1898 (not available during university closure)****Course Description:**

This course offers an overview of the Egyptian legal system. It traces historical development of the Egyptian legal order in modern times and examines the different legal systems and socio-political factors that helped shape the legal system. For example, it looks at the role played by *sharī'a* in pre-colonial and post-colonial Egypt and assesses the different theoretical positions about the prominence/absence of *sharī'a* from the current legal framework. It also examines the role of colonialism and the influence of European legal regimes on the so-called 'secularisation' of the Egyptian legal system.

Additionally, the course also addresses the relationship between law and politics in Egyptian society. It offers special emphasis on the development of Egyptian constitutional law and offers analysis of recent developments in this area, but also examines other areas of law such as criminal law, civil law, labour law and personal status law. In examining these different areas of law, the course attempts to critically examine the role played by the legal framework in shaping and reiterating existing social structures through examination of gender, socio-economic structures, the rights of religious minorities...etc.

Course Learning Objectives:

As a result of this course, students should:

1. Understand the evolution of Islamic law and its institutions.
2. Comprehend the sources of Islamic law and the relationship between the sources.
3. Be aware of the different theoretical approaches to the study of Islamic law.
4. Have an overview of the Egyptian legal system.
5. Understand the relationship between Islamic law and the evolution of the modern nation state, with a focus on the Egyptian system.
6. Understand the Egyptian legal branches covered in the course.
7. Develop an ability to critically engage with issues relating to Islamic law and the Egyptian legal system.

Course Instruction Mode:

The course is heavily reliant on class discussions. Hence the course will be conducted synchronously via Zoom. You are expected to attend and participate in all sessions. Unless there is a reason you cannot open your camera during sessions, you are strongly urged to keep your cameras open to ensure active participation. In order to overcome internet connectivity issues you may encounter, sessions will be recorded and shared via blackboard. **Please contact me during the first week of classes if you object to being recorded.**

POLS 4375 Zoom Meeting Invitation (to be used for the duration of online teaching):

<https://aucegypt.zoom.us/j/6795089720>

Meeting ID: 679 508 9720

Office Hours:

Office hours will be 1:00-2:30 pm on Mondays and Thursdays.

Signup for Office Hours must be done via this link (24 hours before the appointment):

<https://www.signupgenius.com/go/70A0B48AEAE22AAFC1-fall>

Office Hours Zoom Meeting Invitation (to be used for the duration of online teaching):

<https://aucegypt.zoom.us/j/6795089720>

Meeting ID: 679 508 9720

Assignments:

Assignment	Due Date	Weight	Description	Criteria for Assessment
Midterm	14/10/2020	20%	<ul style="list-style-type: none">• Take Home Essay in Response to One of Two Set Question.• Word Limit: 1500 (Any word beyond the word limit will be crossed out)• Sources, including reading material, must be Cited.	<ul style="list-style-type: none">• Identification of issues relating to the question.• Development of a clear thesis/argument and coherent subarguments.• Ability to prove one's argument and identify and refute counter-arguments.• Digestion of course reading material.

				<ul style="list-style-type: none"> • Proper citation. • Coherent writing style.
Reaction Papers	<p>First Reaction Paper: 01/10/2020</p> <p>Second Reaction Paper: 22/10/2020</p> <p>Third Reaction Paper: 24/11/2020</p>	15%	<ul style="list-style-type: none"> • Submit 3 reaction papers. • Reaction papers are analytical/critical thoughts on the set of readings assigned to a particular session. • Word Count: 750 words (Any word beyond the word limit will be crossed out). • Must be Submitted before the Session with the designated readings the student is reacting to. • Reaction Papers must be submitted to blackboard <i>before their due time. There are no excuses for failing to submit the required number of reaction papers by the end of the semester (including sickness, car accidents and any other reasons)</i> 	<ul style="list-style-type: none"> • Critical Engagement with the reading material. (NO SUMMARIES) • Coherent thesis statement. • Comprehension of the author's arguments. • If necessary, awareness of other reading material. • Ability to prove one's argument and identify and refute counter-arguments. • Coherent writing style and Proper Citation.
Participation		10%	<ul style="list-style-type: none"> • University Attendance policy applies, but if you do not attend, you will not get any participation 	<ul style="list-style-type: none"> • Digestion of the reading material. • Critical Engagement with the reading material.

			<p>grades. However, attending does not guarantee any of the 10% allocated for participation. The primary benchmark will be your participation in class.</p>	<ul style="list-style-type: none"> • Critical Engagement with comments made by the instructor and your colleagues. • Positive and Respectful Demeanor.
Research Project	See below	30% (divided as below)	<ul style="list-style-type: none"> • You are expected to submit a critical literature review of a topic of your choice. • The literature review must include an original research thesis statement (including a research question and a hypothesis) and a critical engagement with the literature. • In your critical review of the literature, you must identify an existing gap and explain how your research fills this gap. 	<ul style="list-style-type: none"> • Original Thesis Statement • Identification of Literature Trends • Identification of Gap in Existing Trends • Ability to explain how research project fills the gap. • Critical Engagement with the literature. • Coherent and Clear Writing Style • Proper Citation.
<i>Research Question</i>	<i>25/10/2020</i>	<i>5%</i>	<ul style="list-style-type: none"> • <i>You must identify a research question that fills gap in literature</i> 	<ul style="list-style-type: none"> • <i>Originality of Research Question</i> <ul style="list-style-type: none"> • <i>Development of a Falsifiable Question.</i> • <i>Ability to Fill Gap with the Question</i>
<i>Annotated Bibliography</i>	<i>16/11/2020</i>	<i>5%</i>	<ul style="list-style-type: none"> • <i>This is not a summary of the readings.</i> • <i>This is a brief critical engagement with</i> 	<ul style="list-style-type: none"> • <i>Covering literature trends.</i> • <i>Explanation of relevance to the research.</i>

			<p><i>the texts used in the project.</i></p> <ul style="list-style-type: none"> • You must explain relevance to your research and how this text will be used. 	
Recorded Presentation	16/11/2020	5%	<ul style="list-style-type: none"> • Ten minute Presentation on your research. 	<ul style="list-style-type: none"> • Clarity of research Question • Critical Mapping of the literature, • Clarity of Delivery.
Feedback on 5 presentations	03/12/2020	5%	<ul style="list-style-type: none"> • You will write a 50 word paragraph in response to 5 presentations delivered in the class 	<ul style="list-style-type: none"> • Identification of strength and weaknesses in the presentations. • Offering meaningful feedback on how to overcome weaknesses in the research design.
Final Project	07/12/2020	10%	<ul style="list-style-type: none"> • This is your final product in an essay format. • Word Count: 2500 words. 	<ul style="list-style-type: none"> • Original Thesis Statement • Identification of Literature Trends • Identification of Gap in Existing Trends • Ability to explain how research project fills the gap. • Critical Engagement with the literature. • Coherent and Clear Writing Style • Proper Citation.
Final Exam	17/12/2020	25%	<ul style="list-style-type: none"> • Take Home Essay in Response to One of Two Set Question. • Word Limit: 2000 words Any word beyond the word limit will be crossed out) • Sources, including reading material, must be Cited. 	<ul style="list-style-type: none"> • Identification of issues relating to the question. • Development of a clear thesis/argument and coherent subarguments. • Ability to prove one's argument and identify and refute counter-arguments. • Digestion of course reading material. • Proper citation. • Coherent writing style.

Important Notes Regarding Written Assignments

- All written assignments are due via blackboard before the deadline.
- All written assignments are graded on both form and content. This means that you are graded both on *what* you argue as well as *how* you present your ideas and claims.
- Students are required to include their course code, student number, Title Page and Bibliography, including standard formatting written in Times New Roman, 12pt font, and double-spaced. Please do not write your name on any of the assignments you submit.
- Make sure to include correct referencing for any materials used from the readings following the for citation. The instructor will check your work for plagiarism. Improper citation counts as plagiarism.
- Do not exceed the assigned word/page count as indicated above. The instructor will not read anything beyond the word limit
- Late Assignments will not be accepted.

Grading Policy

A 93-100	B+ 87-89.99	C+ 77-79.99	D+ 63-66.99	F <50
A- 90-92.99	B 83-86.99	C 70-76.99	D 50-62.99	
	B- 80-82.99	C- 67-70.99		

Behaviour:

Students are expected to abide by the *Student Academic Conduct Code* and assist in creating an environment that is conducive to learning and that protects the rights of all members of the University community. Incivility and disruptive behaviour will not be tolerated, will certainly lead to a low participation grade, if not a fail, and may result in a request to leave class and referral to the Office of Student Affairs for discipline.

Academic Integrity

Teaching is based on a relation of mutual trust between the teacher and the students. When we research, we use other people's work to help develop our own: this is an essential part of the academic world. However, when you use someone else's work, you must cite it. This lets the reader know which parts of the work are your own, and which parts come from other sources. What that means it that anytime you draw from someone's ideas or use their actual words, you must give the name of the author and the book in proper citation form.

All students are expected to be familiar with the AUC code of practice on academic integrity which is available at:

<http://in.aucegypt.edu/auc-academics/academic-integrity/academic-integrity-students>

Please pay particular attention to the regulations on plagiarism, collaborative work and falsification of signatures. All breaches of the code of practice will be acted upon promptly and firmly, resulting at least in zero marks for the relevant piece of assessment and possibly in further action being taken by the instructor, depending on the severity of the offense.

If in doubt as to what constitutes plagiarism, do not hesitate to contact the instructor.

Academic Freedom and Intellectual Interaction

In this course you will deal with a number of topics that are often controversial. You are free to offer the class any disagreement you may have with the readings or lecture. You will not be penalised for disagreeing with other students, the readings or the instructor, but your perspective must be based on documentable evidence from the course or other readings. Freedom of speech and ideas is a basic principle of academic life (and of universal human rights) and every student will have a chance to express her/his opinion as long as it is voiced in a respectful manner. However, varied points of view must be expressed in a manner that is sensitive to differences in abilities, ethnicity, religion, gender and lifestyle, and should not be expressed so as to be perceived as a personal attack. In short, respect for others' differences is one of the most important prerequisites for us working together in this course.

Students Who Are Differently-Abled

If you believe that you are differently-abled/have a disability that impacts your studies, or you have documentation of such, please contact the instructor as soon as possible. The instructor is happy to hear from you even if you do not have a formal proof; however, you may be asked to provide a note from the AUC Disability Services (<http://in.aucegypt.edu/student-life/student-well-being/disability-services>) when your condition requires substantial adjustments (e.g. to the structure of the exams etc.).

Primary Textbook:

Bernard-Maugiron, Nathalie & Dupret, Baudouin (ed), Egypt and its Laws, London: Kluwer International, 2002.

N.B. The schedule of classes may change in the course of the semester (some classes may have to be cancelled or rescheduled), and reading assignments may be either changed, edited or moved from one week to another week. Announcements to that effect will be made in class a week in

advance. Students are assumed to attend and therefore be informed of such changes. In addition, students are assumed to read their e-mail messages regularly, to be informed of possible last-minute cancellations due to unforeseen circumstances.

Sessions:

Session 1(03/09/2020): Introduction to the course

Session 2 (07/09/2020): Introduction to Shari'a

- Hallaq, Wael, 'The Law: How Is it Found?', *An Introduction to Islamic Law*, Cambridge University Press: 2009.

Session 3 (10/09/2020): Introduction to Shari'a II

- Hallaq, Wael, 'What is Shari'a?', 12 Yearbook of Islamic and Middle Eastern Law (2007).
- Abou-Odeh, Lama, *The Politics of (Mis)recognition: Islamic Law Pedagogy in American Academia*, 52 Am. J. Comp. L. 789-824 (2004).
- Shalakany, Amr. "Islamic Legal Histories." *Berkley Journal of Middle Eastern and Islamic Law* 1 (2008): 2–82. doi: <http://dx.doi.org/doi:10.15779/Z38CC7W> [Google Scholar]

Session 4 (14/09/2020): Sunni Schools of Jurisprudence

- Melchert, Christopher, *The Formation of Sunni Schools of Law, 9th-10th Centuries C.E.*, Brill: 1999. Read Chapter Two and Conclusion
- Hallaq, Wael, *Islamic Legal Theories: An Introduction to Sunni Usul al-Fiqh*, CUP: 1997, Read Chapter 1.

Session 5 (17/09/2020): Modern Islamic Legal Approaches

- Layish, Aharon 'Transformation of shari'a from jurists' law to statutory law in the contemporary Muslim world,' 44 (1) *Die Welt des Islams* (2004). Skip references to countries other than Egypt.
- Hallaq, Wael, *Islamic Legal Theories: An Introduction to Sunni Usul al-Fiqh*, CUP: 1997, Read Crisis of Modernity Chapter

Session 6 (21/09/2020): Modernization of the Egyptian Legal System

- Egypt and Its Laws: Introduction

Session 7 (24/09/2020): Modernization of the Egyptian Legal System II

- Liebesny, Herbert. *The Law of the Near & Middle East: Readings, Cases & Materials*, Albany: 1975. pp. 85-106.
- Khaled Fahmy, “Justice, Law and Pain,” In Dupret B. (Ed.) *Standing Trial: Law And The Person In The Modern Middle East*. London: I.B.Tauris, 2005.

Session 8 (28/09/2020): Modernization of the Egyptian Legal System III

- Shalakany, Amr, ‘Between Identity and Redistribution: Sanhuri, Genealogy and the Will to Islamise’, *Islamic Law and Society*, Vol. 8, No. 2 (2001), pp. 201-244
- Civil Law, in Egypt and its Laws

Session 9 (01/10/2020): Modern Egyptian Law

- Brown, Nathan J. *selected readings from The Rule of Law in the Arab World, Courts of Egypt and the Gulf*, Cambridge University Press: 1997.

Session 10 (05/10/2020): Constitutional Law

- Egypt and its Laws: Chapter 16 & 17.
- 1971 Constitution

Session 11 (07/10/2020): Egyptian Constitutional History I (Makeup Session during Assembly)

- Moustafa, Tamir, ‘Executive Retrenchment and Uncertain Future’, *The Struggle for Constitutional Power: Law, Politics, and Economic Development in Egypt*, Cambridge University Press: 2007.
- Nathan J. Brown, Michele Dunne, and Amr Hamzawy, *Egypt’s Controversial Constitutional Amendments*, March 23rd, 2007, available at: http://www.carnegieendowment.org/files/egypt_constitution_webcommentary01.pdf.

Session 12 (12/10/2020): Egyptian Constitutional History II

- Mohamed Fadel, *The Sounds of Silence: The Supreme Constitutional Court of Egypt, Constitutional Crisis, and Constitutional Silence*, forthcoming.
- Brown, Nathan J. and Julian G. Waller, ‘Constitutional courts and political uncertainty: Constitutional ruptures and the rule of judges’, 14 (4:1) *International Journal of Constitutional Law* 817 (2016). Read Section 5.

Session 13 (15/10/2020): Islamic Law and the Constitution I

- Balz, Kilian, 'The Secular Reconstruction of Islamic law', Legal Pluralism in the Arab World, edited by Dupret et al, London: Kluwer International, 1999.
- Lombardi, Clark B. and Brown, Nathan, 'Do Constitutions Requiring Adherence to Sharia Threaten Human Rights', 21 American International Law Review.

Session 14 (19/10/2020): Islamic Law and the Constitution II

- Parolin, Gianluca, 'Rearrangement of State/Islam Relations in Egypt's Constitutional Transition', Public Law and Legal Theory Research Papers Series, Working Paper No. 13, 15 May, 2013.
- Intisar Rabb, "The Least Religious Branch?" The New Islamic Constitutionalism after the Arab Spring," 17 UCLA J. Int'l L. and Foreign Aff. 75 (2013)

Session 15 (22/10/2020): Comparing the last three Egyptian Constitutions

- Comparing Egypt's Constitutions, available at:
<https://carnegieendowment.org/files/Comparing-Egypt-s-Constitutions.pdf> fading TBA.
- Comparing Three Versions of the Egyptian Constitution, available at:
<http://comparativeconstitutionsproject.org/comparing-the-egyptian-constitution/> .

Session 16 (26/10/2020): Marriage in Classical Jurisprudence

- Tucker, Judith, Women, Family and Gender in Islamic Law, Cambridge University Press: 2008. Read Chapter 2.

Session 17 (02/11/2020): Divorce in Classical Jurisprudence

- Tucker, Judith, Women, Family and Gender in Islamic Law, Cambridge University Press: 2008. Read Chapter 3.

Session 18 (05/11/2020): Personal Status Law I

- Abu-Odeh, Lama, *Modernizing Muslim Family Law: The Case of Egypt*, 37 Vanderbilt. Journal of Transnational Law (2004).

Session 19 (09/11/2020): Personal Status Law II

- El-Alami, Dawoud, 'Remedy or Device? The System of Khul' and the Effects of its Incorporation into Egyptian Personal Status Law', 6 Yearbook of Islamic and Middle Eastern Law (1999-2000).
- Bernard-Maugiron, Nathalie and Dupret, Baudouin. 'Breaking Up the Family: Divorce in Egyptian Law and Practice', 6 Hawwa (2008).

Session 20 (12/11/2020): Personal Status Law for non-Muslims

- Maugiron, Nathalie Bernard, "Divorce and Remarriage of Orthodox Copts in Egypt: The 2008 State Council Ruling and the Amendment of the 1938 Personal Status Regulations", *18 Islamic L. & Society* 356 2011.
- Maurits Berger, "Secularizing Interreligious Law in Egypt, " *Islamic Law and Society*, Vol. 12, No. 3 (2005)
- Saba Mahmood, "Sectarian Conflict and Family Law in Egypt," *American Ethnologist*, 02/2012, Volume 39, Issue 1.

Session 21 (16/11/2020): Criminal Law in Islamic Jurisprudence

- Hallaq, Wael, 'Offences', in *Sharia, Theory, Practice and Transformations*, Cambridge University Press: 2009.
- Peters, Rudolph, 'The Classical Doctrine', in *Crime and Punishment in Islamic Law*, Cambridge University Press, 2005.

Session 22 & 23 (19/11/2020): Egyptian Criminal Law I & II (Makeup session during Assembly)

- Egypt and its Laws, Chapter 3.
- EIPR report on the Mubarak trial, available at: <http://eipr.org/report/2013/01/17/1591>, English summary available at: <http://eipr.org/en/report/2013/01/17/1592>.
- Adil Ahmad Haque, The Revolution and the Criminal Law, *Criminal Law and Philosophy*, Vol. 7, 2013.
- The Centre for Egyptian Women Legal Assistance, 'Crimes of Honour as Violence Against Women in Egypt: An Analysis and Future Prospects' in *Honour: Crimes, Paradigms, and Violence Against Women*, Zed Books: 2005.
- Murielle Paradelle, "The Notion of "Person" between law and practice: A study of the Principles of Personal Responsibility and the Personal Nature of Punishment in Egyptian Criminal Law," In Dupret B. (Ed.) *Standing Trial: Law And The Person In The Modern Middle East*. London: I.B.Tauris, 2005.

Session 24 (23/11/2020): Administrative Law

- Bernard-Maugiron, Nathalie & Dupret, Baudouin (ed), *Egypt and its Laws*, London: Kluwer International, 2002. Read Chapter 14 and Chapter 15 (M. Rady).
- Badawi, Nesrine, “Sovereign Acts in the 2014 Egyptian Constitution” *Forthcoming*

Session 25 (30/11/2020): Exceptional Justice Systems in Egypt/Freedom of Assembly

- Egypt and its Laws, Chapter 19.
- Egypt Anti-terror law: http://www.atlanticcouncil.org/images/EgyptSource/Egypt_Anti-Terror_Law_Translation.pdf.
- Egypt: Intensifying Crackdown Under Counterterrorism Guise, Human Rights Watch, July 15, 2019, available at: <https://www.hrw.org/news/2019/07/15/egypt-intensifying-crackdown-under-counterterrorism-guise>.
- TIMEP, Protest and Freedom of Assembly in Egypt, available at: <https://timep.org/reports-briefings/protest-and-freedom-of-assembly-in-egypt/>

Session 26 (03/12/2020): Treatment of Non-Muslims under Islamic Law

- Badawi, Nesrine. “Sunni Islam. Part I: Classical Sources” in Religion, War and Ethics: A Sourcebook of Textual Traditions, Edited by Gregory M. Reichberg and Henrik Syse, Cambridge: Cambridge University Press, 2014
- An-Naim, Abdullahi, Religious Minorities under Islamic Law and the Limits of Cultural Relativism’, vol. 9, 1987.
- Abou El Fadl, Khaled. ‘Interacting with Non-Muslims and Salvation’, The Great Theft, 2005.

Session 27 (07/12/2020): Religious Minorities in Egypt

- EIPR report (see blackboard)
- Maurits S. Berger, Apostasy and Public Policy in Contemporary Egypt: An Evaluation of Recent Cases from Egypt’s Highest Courts, *Human Rights Quarterly* 25 (2003).
- Berger M.S. (2005), Regulating tolerance: protecting Egypt’s minorities’. In: Dupret B. (Ed.) *Standing Trial: Law And The Person In The Modern Middle East*. London: I.B.Tauris.

Session 28 (10/12/2020): Labour Law in Egypt

- Taha, Mai. “The Egyptian revolution in and out of the juridical space: an inquiry into labour law and the workers’ movement in Egypt”, *International Law in Context*, 10(2) pp. 177–194 (2014).
- TIMEP, Freedom of Association in Egypt, available at: https://timep.org/wp-content/uploads/2019/06/TIMEP-FreedomofAssociation_2.pdf

- Ruiz-Resa, Josefa D., “Commentary: The ILO Committee on Freedom of Association and the Unions’ Regulations in Egypt,” *International Labor Rights Case Law*, vol. 1, issue 3, 2015.
- Beinin, Joel. *Workers and thieves: labor movements and popular uprisings in Tunisia and Egypt* (Stanford University Press, 2016), Chapters 3 and 4.