LAW IN MIDDLE EAST SOCIETIES

Syllabus and Reading Assignments

Spring 2008
Professor George E. Bisharat
Hastings College of the Law

I. OBJECTIVES

This class will examine the phenomenon of law, conflict, and dispute processing in societies of the modern Middle East, including the Arab world, Turkey, Iran, and Israel. While formal legal doctrine and institutions will be of considerable concern, the principal focus of the seminar will be on the complex interplay of indigenous cultures, religious belief, custom, colonial influence, and other factors which cause and explain disputes and their modes of resolution in the region. The term “dispute” here is used in a broad sense, and comprehends not only disagreements between individuals, but also long-standing, structural tensions between social groups (such as classes, genders, and the like) and between citizens and formal authority.

No specialized knowledge of the Middle East is assumed or required. Some readings will be designed to enhance your general understanding of the people, cultures, languages, economy, geography, and political systems of the region. Others will focus more specifically on law, conflict, and disputing.

II. METHODOLOGY

The first seven meeting of the class will pursue specific issues and problem areas defined by the professor, for which readings will be assigned. The remaining meetings will be devoted to student presentations of their research.

III. COURSE REQUIREMENTS

The primary requirement of the seminar is a research paper. The paper is due one week after the last class, on May 1. Papers may be based on ethnographic fieldwork, textual sources, or a combination of the two, and should range in length between twenty and forty double-spaced pages.

Informed participation in all class discussions is also required. The class is a collaborative learning project. If you do not attend all class sessions, you will not have fulfilled your responsibilities to this collective enterprise and may be dropped from the class.

Each student is also required to serve as an “expert” for at least one class session. This involves extra reading, and, optimally, should lead to particularly well-informed participation in class discussion for the session in question. Experts are also required to turn in a short written synopsis (no more than one double-spaced page) of the work(s) they have read to build expertise.
Students must select the session for their expert participation no later than the second meeting of the class, and inform the professor of that choice in writing. We will then negotiate how to divide expert readings among students who have designated the same date for participation. Students are encouraged to propose other or additional readings to build expertise.

IV. EVALUATION

The course grade will be based on the research paper, but may be adjusted upward or downward by one-half grade based on general class participation, including expert participation.

V. CLASS SCHEDULE AND READINGS

Regular required readings will be drawn from two main sources: Understanding the Contemporary Middle East (2d ed., Deborah J. Gerner and Jillian Schwedler, eds.), available in the bookstore, and a course reader. Unless otherwise indicated, all readings listed for a class meeting are required. In some cases, you will have the option of reading one or more, but not necessarily all of the readings assigned for a particular meeting. Please consult the syllabus regularly to ascertain the reading requirements. Substitutions or additions to the reading list, including those proposed by students, are possible.

Most expert readings will also be on Course Reserve in the Library. In some cases, expert readings may be divided amongst the students serving as experts that week; i.e. experts may not necessarily read all the items listed for that week, subject to agreement between the professor and the experts.

All students are invited to explore the expert readings during their “off” weeks. Experts are also encouraged to rely on expertise gleaned from any other sources, whether written or experiential, as long as this advances, rather than substitutes for, genuine insight.

In keeping with the region of study, everything is negotiable, at least with respect to readings, as long as the object - informed and lively discussion - is achieved.

1. Thursday, January 10: Introduction to the class - Understanding the Contemporary Middle East (hereafter “Understanding”), Chapters 1 and 2

2. Thursday, January 17: The Study of Islam and Law in Middle East Societies

REGULAR READING: Read both

Understanding, Chapter 3
3. Thursday, January 24: The formation of modern Middle Eastern legal systems and legal profession: Egypt

REGULAR READING: Read

Understanding, Chapter 4

EXPERT READING:

Tawfik al-Hakim, The Maze of Justice
Farhat Ziadeh, Lawyers, the Rule of Law, and Liberalism in Modern Egypt
Nathan Brown, The Rule of Law in the Arab World: Courts in Egypt and the Gulf
George Bisharat, Palestinian Lawyers and Israeli Rule
Brinkley Messick, The Calligraphic State
4. Thursday, January 31: **Culture and Disputing: Turkey** (film: “Adliye: Disputing in a Rural Turkish Court”)

**REGULAR READING:**

*Understanding*, Chapter 10 – Kinship, Class, and Ethnicity
June Starr, “Turkish Village Disputing Behavior” (reader)

**EXPERT READING:**

Catherine Witty, *Mediation and Society: Conflict Management in Lebanon*
Frank Stewart, *Honor*
June Starr, *Law as Metaphor*
Asef Bayat, *Street Politics*
Austin Kennett, Bedouin Justice: Laws and Customs among the Egyptian Bedouin

Thursday, February 7: No class (a Hastings “administrative Monday”)

5. Thursday, February 14: **Gender and Family Law** (film: “Divorce Iranian Style”)

**REGULAR READINGS:**

*Understanding*, Chapter 11

**EXPERT READING:**

Annelies Moors, Women, Property, and Islam: Palestinian Experiences 1920-1990
Amira el-Azhary Sonbol, Women of Jordan: Islam, Labor, and the Law
Judith Tucker, In the House of the Law: Gender and Islamic Law in Ottoman Syria and Palestine
Shahla Haeri, Law of Desire: Temporary Marriage in Shi’i Iran
Ziba Mir-Hosseini, Marriage on Trial: A Study of Islamic Family Law Iran and Morocco Compared
Lynn Welchman, Women and Muslim Family Laws in Arab States

6. Thursday, February 21: **Law and Legitimacy in Israel and the Occupied Territories**

**REGULAR READING:** Read both

*Understanding*, Chapter 6
Ronen Shamir, “‘Landmark Cases’ and the Reproduction of Legitimacy: the Case of Israel’s High Court of Justice”, 24 Law and Society Review 781

EXPERT READING:

Ronen Shamir, The Colonies of Law
David Kretzmer, The Occupation of Justice
George Bisharat, “Land, Law, and Legitimacy in Israel and the Occupied Territories”
Assaf Likhovski, Law and Identity in Mandate Palestine
Issachar Rosen-Zvi, TAKING SPACE SERIOUSLY: LAW, SPACE AND SOCIETY IN CONTEMPORARY ISRAEL
Lisa Hajjar, Courting Conflict: The Israeli Military Court System in the West Bank and Gaza Strip

Thursday, February 28: No Class

7. Thursday, March 6: War, Violence, and Resistance

REGULAR READING:

Bernard Freamon, “Martyrdom, Suicide, and the Islamic Law of War: a Short Legal History”

EXPERT READING:

Khaled Abou el Fadl, Rebellion and Violence in Islamic Law
Amy Chua, World on Fire
Khaled Hroub, Hamas: Political Thought and Practice
Augustus Richard Norton, Hezbollah: a Short History
Ronald Pape, Dying to Win
Talal Asad, On Suicide Bombings
Mahmood Mamdani, Good Muslim, Bad Muslim
Tobias Kelly, Law, Violence, and Sovereignty among West Bank Palestinians

Thursday, March 13: Spring Break

8. Thursday, March 20: Student presentations

9. Thursday, March 27 Student presentations

10. Thursday, April 3: Student presentations

11. Thursday, April 10: Student presentations

12. Thursday, April 17: Student presentations
13, Thursday, April 24: Student Presentations

Thursday, May 1, 1:00 p.m. - **FINAL PAPER DUE** (turned in directly to the professor, or time-stamped and in his faculty mailbox)