

Universitas Islam Indonesia

Faculty of Economics

INTERNATIONAL PROGRAM



ISLAMIC STUDIES PROGRAM

Syllabus: Islamic Criminal Law

Lecturer	: Prof. Dr. Khoiruddin Nasution
Email	: knasut@yahoo.com
Phone	: +6281328307750
Credit (CP)	: 2
Consultation time	: By appointment
Campus	: Faculty of Law, UII

Subject Overview:

The body of law dealing with wrongs that are punishable by the state with the object of deterrence is known as criminal law. Islamic criminal law recognizes three categories of these wrongs, all of which are discussed and analysed in this subject. The modern issues and controversy encompassing the Muslim world and its criminal law, specifically in Indonesia, becomes a focal point in the understanding and reinterpretation of traditional Islamic law.

Subject Objective:

After completing this course, students are expected to:

1. Understand the meaning and principles of Islamic criminal law
2. Understand the kinds of punishment in Islamic criminal Law: hudud, qisas, and ta'zir
3. Understand the existence of Islamic criminal law in Muslim countries, that includes criminal law that is recognised, ignored or contextualised
4. Understand contemporary issues relating to Islamic criminal law; cyber crime, corruption, money laundering, and illegal logging
5. Understand the phenomenon of the standardisation of Islamic criminal law in some areas in Indonesia
6. Understand the basic methods of interpreting traditional concepts of Islamic criminal law

Assessment:

The final grade will be determined by a composite evaluation of the student's performance based on the following assessment areas:

Task	Value	Deadline
Group Assignment/ Academic Paper	60%	2 weeks after group presentation which begin week 3
Mid Term Exam	20%	During first exam period (week 7)
Final Exam	20%	During second exam period (week 15)

Group assignment/Academic Paper:

Student will be asked to form groups of four students (the number students in a group will be depended basically on the number of students in a class). Each group will select a topic to discuss and analyze.

1. These topics will be presented to the class as a group. Each group will have 45-60 minutes for their presentation including question time about their presentation. It is hoped that students will make their best efforts in to facilitate a discussion that can actively involve other students.
2. Each student must write an academic paper based on the group's topic that is critical and scientific. The paper should be of approximately 2500 words in length. Late papers will lose marks at a rate of 10% per day.

Examination:

There will be a mid and final exam. Exam question must be answered in essay format. Student will be given a number of different questions and must choose two questions and write two essays that related to the topics discussed in class. The mid exam will focus on material that is discussed in week 1-6, and final exam will focus on material from week 7-12.

Grading System:

Based on university policy, a pass grade or better will only be given to students who achieve a final grade above 55%.

Total	Grade
86 - 100	A
83 - 85	A-
80 - 82	A/B
76 - 79	B+
71 - 75	B
68 - 70	B-
64 - 67	B/C

Total	Grade
61 - 63	C+
56 - 60	C
53 - 55	C-
49 - 52	C/D
45 - 48	D+
35 - 44	D
0 - 34	E

Policy on assessment:

Essays and assignments will not be accepted after the due date unless arrangements for an extension of time have been made prior to the due date. If you do not agree with the result that you achieve for any piece of assessment for this subject please contact the lecturer immediately. You have a right to know the reasons why your work has received a certain grade and to request it be reassessed if you believe it has been unfairly assessed.

Warning Concerning Academic Misconduct:

The International Program expects all students and staff to act with honesty and integrity in all matters. That means being truthful and recognising the intellectual ownership of other people's words, ideas, research findings and information. To not do so academically dishonest and may incur a range of penalties. Academic misconduct includes plagiarism, collusion, cheating in examinations, misappropriating the research of others and misrepresenting research findings.

What is plagiarism?

Plagiarism is the using of another person's ideas or expressions without appropriate acknowledgment and presenting these ideas or forms of expression as your own. It includes not only written works such as books or journals, but data or images that may be presented in tables, diagrams, designs, plans, photographs, film, music, formulae, web sites and computer programs. Plagiarism includes the use of the work of lecturers or other students as your own without acknowledgment. Self-plagiarism is the reuse of your own work without indicating that you have reused it.

Quoting and Paraphrasing:

A quote occurs when you use 5 or more words from another source exactly as the words appear in the original. You are allowed to incorporate quotes from the work of others into your work. However, only up to 10% of your work can be quoted. A paraphrase is restating what someone else has said or written *using your own words*. A paraphrase is not achieved by simply altering the words from another source slightly. A slight rewording is still effectively a quote. You must either:

- Provide an *exact* quote (and indicate that it is a quote)
- Provide an appropriate paraphrase of the ideas in your words.

An appropriate paraphrase is normally achieved by reading and taking notes, then *closing the book and writing your own words*.

What is collusion?

Collusion involves working with others with the intention of deceiving examiners about who actually completed the work. For example, if a student employs someone else to do their work for them, that would constitute collusion. Or if one student willingly allows another student to copy their work for an individual assessment task, that would constitute collusion. In that case both students may have committed an academic offence. Collusion is not the same as collaboration. Collaboration is working together on a task; collusion is doing so in an unauthorised manner. What is authorised varies from task-to-task. For example, collaboration is allowed or expected on many assignments, but for other tasks such as exams and some in-class or online tests no collaboration is allowed. If you have any doubt about what constitutes authorised and unauthorised collaboration on a particular task you should consult IP management.

Avoiding plagiarism:

Plagiarism is avoided by appropriately acknowledging sources of your ideas or expressions. In this unit this entails:

1. Providing an in-text citation using the APA referencing system at the place where any idea or expression from another source is used, whether directly quoted or paraphrased; and
2. Clearly indicating where material is directly quoted (a direct quote occurs if 5 or more words from another source are used exactly as they are used in the original) by using quotation marks for short quotes or indenting for longer quotes; and
3. Providing a full reference to the source in a list of references at the end of the work, again using the APA referencing system.

Important Note: the *APA Referencing Guide* can be obtained from IP management

Lecture Program/Topics:

Meeting	Topics	Reading
1	Introduction: description of overview, subjects, references, and assessment of the course	
2	Meaning and position of Islamic criminal law (jinayah, uqubah)	Matthew Lippman and others, 1948; M. Bassiouni; ed., 1982.
3	Principle in Islamic criminal law (legal, material, and moral principle [asas legalitas, materialitas, and moralitas])	M. Bassiouni, ed., 1982.
4	Kinds of punishment ('uqubah/jarimah) in Islamic criminal Law: hudud, qisas, and ta'zir.	Selim El-Awa, 1976; Mohd. Suleman Siddiqi, 1981.
5	The existence of Islamic criminal law in Muslim countries (current phenomenon); recognized, ignored or contextualized (overwiev)	Herbert J. Liebesny, 1975, Ann Elizabeth Mayer, 1987.
6	Contemporary Issues on Islamic criminal law: cyber crime, corruption, illegal logging, and money laundry.	Assafa Endeshaw, 2001.
7	Indonesia issues of formalization of Islamic criminal law: Case of Aceh	Al Yasa' Abubakar, 2005, 2006
8	Indonesia issues of formalization of Islamic criminal law: Case of Bulukumba (Sulawesi)	Andi Muawiyah Ramly, ed., 2006.
9	Indonesia issues of formalization of Islamic criminal law: Case of Solo (west Sumatra)	M.B. Hooker, 2008.
10	Basic method of reinterpreting of traditional concept of Islamic criminal law	Fazlur Rahman, 1986, 1982, 1970; Kuntowjoyo, 1991.
11	Application of the basic method and contextualization of traditional Islamic criminal law related to Hudud, Qisas, and Ta'zir	
12	Concluding remark	

References:

A. Main Texts

Matthew Lippman and others, *Islamic Criminal Law and Procedure: An Introduction*. London: Greenwood Press Inc., 1948.

M. Bassiouni, ed., *The Islamic Criminal Justice System*. London: Oceana Publication, Inc., 1982.

Herbert J. Liebesny, *The Law of the Near and Middle East: Reading, Cases, and Materials*. New York: State University of New York Press, 1975.

Mohd. Suleman Siddiqi, "The Concept of Hudud and Its Significance", *Islamic Culture* 55: 3 (July 1981), pp. 191-207.

- Muhammad Selim El-Awa, "Ta'zir in the Islamic Penal System I", *Journal of Islamic and Comparative Law*, vol. 6 (1976); 41-59.
- Jerbert J. Liebesny, "Judicial System in the Near and Middle East: Evolutionary Development and Islamic Revival" *The Middle East Journal*, 37, No. 2 (Spring, 1983); 202-217.
- Ann Elizabeth Mayer, "Law and Religion in the Muslim Middle East", *The American Journal of Comparative Law*, 35 (1987); 127-184.
- Fazlur Rahman, "Interpreting the Qur'an," dalam *Afkar Inquiry Magazine of Events and Ideas*, Mei 1986.
- Fazlur Rahman, *Islam & Modernity: Transformation of an Intellectual Tradition*. Chicago: The University of Chicago Press, 1982.
- Rahman, Fazlur, "Islamic Modernism: Its Scopes, Method, and Alternatives", *International Journal of Middle East Studies*, no. 1 (1970), pp. 317-337.
- Assafa Endeshaw, *Internet and E-Commerce Law*. Singapore: Prentice Hall, 2001.
- Al Yasa' Abubakar, *Bunga Rampai Pelaksanaan Syariat Islam (Pendukung Qanun Pelaksanaan Syariat Islam)*. Banda Aceh: Dinas Syariat Islam Provinsi Nanggroe Aceh Darussalam, 2005.
- Al Yasa' Abubakar, *Syariat Islam di Provinsi Nanggroe Aceh Darussalam: Paradigma, Kebijakan dan Kegiatan*. Banda Aceh: Dinas Syariat Islam Provinsi Nanggroe Aceh Darussalam, 2006.
- Al Yasa' Abubakar dan Marah Halim, *Hukum Pidana Islam di Provinsi Nanggroe Aceh Darussalam*. Banda Aceh: Dinas Syariat Islam Provinsi Nanggroe Aceh Darussalam, 2006.
- Litbang Dinas Syari'at Islam, *Himpunan Undang-Undang, Keputusan Presiden,, Peraturan Daerah, Instruksi Gubernur, Edaran Gubernur berkaitan Pelaksanaan Syari'at Islam*. Banda Aceh: Dinas Syariat Islam Provinsi Nanggroe Aceh Darussalam, 2006.
- Andi Muawiyah Ramly, ed., *Demi Ayat Tuhan: Upaya KPPSI Menegakkan Syariat Islam*. Jakarta: OPSI, 2006.
- M.B. Hooker, *Indonesian Syariah: Defining a National School of Islamic Law*. Singapore: Institute of Southeast Asian Studies [ISEAS], 2008.
- Kuntowjoyo, *Paradigma Islam: Interpretasi untuk Aksi*. Bandung: Mizan, 1991.

B. Additional Texts:

1. James Q. Wilson and Richard J. Hernstein, *Crime & Human Nature: The Definitive Study of the Causes of Crime*. New York: Simon & Schuster, Inc., 1985.
- Majid Khadduri, "Juridical Theory of the Islamic State" in *The Muslim World*, 41 (1951); 181-185.
- Wahbah al-Zuhaili, *al-Nazariyah al-Fiqhiyah*
- Masfuq Zuhdi, *Masail Fiqhiyah*
- Chuzaimah T. Yanggo & Hafiz Anshary, *Problematika Hukum Islam Kontemporer* hasil Bahsul Masail NU dan Majelis Tarjih Muhammadiyah

Edy Sumkati dkk., ed., *Gagasan Pemberlakuan Syariat Islam: Urgensi dan Konsekuensinya*. Jakarta: Komunitas Nisita, 2003.

Khoiruddin Nasution, *Pengantar Studi Islam*. Yogyakarta : ACAdeMIA + TAZZAFA, 2004.

Muhammad Abdun Nasir, *Positivisasi Hukum Islam di Indonesia*. Mataram: IAIN Mataram Press, 2004.