INTRODUCTION TO ISLAMIC LAW:

The Historical Development and Foundations of the Islam’s Legal Schools

HARTFORD SEMINARY

Winter/Spring 2014

Professor: Dr. Feryal Salem
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COURSE DESCRIPTION:

The evolution of Islamic legal reasoning is a sophisticated aspect of the Islamic tradition with many related topics for exploration. This course will examine the foundations of Islamic law from a multifaceted approach. It will begin by tracing the early development of Islamic law within the first two centuries of Islamic history before individually examining the major schools which developed. Legal methodologies used to derive Islamic law and samples from legal problems will be examined to understand the different ways in which Muslim jurists used the same materials from the Qur’an and hadith sources to arrive at different legal conclusions. Contemporary issues related to the relevance of Islamic law in the modern age and the historical
impact these schools had, both in the Muslim world and beyond, will also be discussed; provoking continued thought and study.

**COURSE REQUIREMENTS:**

Students will be introduced to the history and key concepts of Islamic law through a combination of lectures, readings, and assignments. Each week’s theme will have a variety of readings that students will be required to engage through assigned questions on the discussion forum as well as one of four “class reflection” assignments in which students will answer assigned questions about the readings and/or lectures individually. This is a formal assignment and therefore students will be expected to write accordingly. *Late assignments will not be accepted.*

I will be communicating with students weekly either in the form of a lecture presentation and/or comments in the discussion forum. Because this is an online class, participation in the forum is an important part of the grade. In addition, students will be required to write a final 12-15 page research paper on a topic related to Islamic Law and agreed upon beforehand between the instructor and the student. Topics may include an analysis of the legal methodologies of any of the schools covered in the course, the relationship of historical frameworks with those of the contemporary period, or an examination of a particular aspect of Islamic law and the way various legal schools interact with it. *The class schedule is subject to change by the instructor.*

**LEARNING GOALS:**

- To understand the early framework from which legal schools evolved
- To understand the major schools of law within the Islamic tradition in terms of historical development and significance
- To understand the various intellectual tools of legal reasoning used by legists to derive rulings
- To be able understand the reasons which legal schools differ and how their methods of interpretation were used in various cases
- To be able to critically engage contemporary issues related to the use of Islamic law
- To be able to make historical connections between formal legal schools and many later scholastic institutions which they influence
FORUM POSTING GUIDELINES:

One of the challenges of online learning environments is maintaining an opportunity for class interaction while avoiding a tendency for the forum to mushroom into a plethora of independent discussions and statements of varying levels of accuracy; which cannot all be practically addressed in written form. Hence, it is essential for students to follow guidelines in posting on the forum to keep the class discussion a positive learning experience for all students through focused engagement.

- All posts must be related to the assigned question for that week. Staying on topic is essential for maintaining the relevance of the discussion forum in a large online class.
- You may post a thoughtful response to one other student as well as post your own answer to the assigned question.
- Students may not start a new discussion thread on the course site.
- All posts must maintain a level of professionalism and respect for all of the participants in the forum.
- Posts which do not meet these guidelines may be removed.

GRADE DISTRIBUTION:

1) Weekly Discussion Forum Assignments: 20%
2) 4 Class Reflection Assignments: 10% each = 40%
3) Final Research Paper: 40%

ACADEMIC HONESTY

In addition to the plagiarism policy in the Student Handbook, the following apply:

1) Students may not recycle their own or other people’s work.
2) Students may use the internet for their research papers. However, students must explicitly cite any material that has been taken from the internet or other sources and in most cases are urged to paraphrase rather than copy and paste.
3) Your answers for the four class reflection assignments must be based on the assigned readings and lectures. Students may not search for the answers to these assignments on the internet or from any third party.
REQUIRED BOOKS:


RECOMMENDED TEXTS AND RESOURCES:


Farouki, Suha Taji and Basheer Nafi Eds. Islamic Thought in the Twentieth Century. I.B. Tauris.

Haddad, Gibril. The Four Imams. Muslim Academic Trust.

Hermansen, Marcia. Shah Waliullah’s Treatises on Islamic Law. Fons Vitae.


--------- “Living Islam with Purpose.” Tabah Research Papers.


Melchert, Christopher. Formation of Sunni Schols of Law. Leiden, Brill.


Raysuni, Ahmad. Imam al-Shatibi’s Theory of the Higher Objectives and Intents of Islamic Law. International Institute of Islamic Thought.


Stewart, Devin. Islamic Legal Orthodoxy: Twelver Shiite Responses to the Sunni Legal System. University of Utah Press.


Winter, T.J. Cambridge Companion to Classical Islamic Theology. Cambridge


**CLASS SCHEDULE:**

**Week 1: Early Development of Islamic Law**

* Lecture 1 (Presentation)*

Mustafa Sa’id Alkhan, Abḥāth ḥawl Uṣūl al-Fiqh al-Islāmi, pp. 11-61.


Principles, “Qur’an” and “Sunna,” pp.16-111.

Abd Allah, “Living Islam with Purpose.”

**Week 2: Early Development of Islamic Law**

* Lecture 2 (Presentation)*

Hermansen, “Causes of Disagreements Between: Companions and Followers of Positive Law; Legal Schools of the Jurists; People of Hadith and Personal Opinion,” Chaps. 1-3/pp. 5-43.

Kamali, “Ijmāʿ” and “Qiyās”, pp. 228-301.
**Week 3: Early Development of Islamic Law**

*Lecture 3 (Presentation)*


*Reflection Assignment 1*

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**Week 4: Imam Abū Ḥanīfa and his School**


Abu Zahra, pp. 123-255.


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**Week 5: Imam Mālik and His School**


El Shamsy, *Canonization*, pp. 17-44.

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**Week 6: Imam al-Shāfi‘ī and His School**


Abu Zahra, pp. 257-382.

**Week 7: Imam Ahmad b. Hanbal and His School**


Abu Zahra, pp. 383-498.


*Reflection Assignment 2*

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**Week 8: The Development of the Shi’a Schools**

Stewart, *Islamic Legal Orthodoxy: Twelver Shi’ite Responses to the Sunni Legal System.*

Ṭabṭabā’ī, Shi’ite Islam, pp. 39-115.


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**Week 9: The Development of Formal Legal Schools**


Makdisi, “Scholasticism and Humanism in Classical Islam and the Christian West.”


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**Week 10: Reasons for Juristic Differences**

*Lecture (Presentation)*

Bin Bayyah, Abd Allah. “Islamic Discourse Between Conclusive and Variable”

Kamali, pp. 313-409.
**Week 11: Legal Methodology and Samples from Primary Texts**


Ibn Ashur: Treatise on the Maqasid al-Shari’a, pp. 3-59.

*Reflection Assignment 3

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**Week 12: Contemporary Debates: Legal Modernists**


Hourani, *Arabic Thought in the Liberal Age*, “Muhammad Abduh pp. 130-192” and “Rashid Rida” pp. 221-244.”


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**Week 13: Contemporary Debates: Response of Scholastic Traditionalists**

Murad, Abd al-Hakim. “Understanding the Four Madhhabs”

Karim Lahham, “Muhammad Shahrur’s Cargo Cult: A Meditation on His Underlying Conceptual Framework.”

Buti, *al-Lā madhhabiyya* (translation)

Al-Hajj, “Fatwa on Following Rightly Guided Scholars.”

*Reflection Assignment 4

**FINAL PAPER DUE**