The Hebrew University of Jerusalem

Syllabus

Zaydi Islamic Law: Dhimma law as part of the Islamic law of nations (siyar) - 16806

Last update 16-09-2020

HU Credits: 2

Degree/Cycle: 2nd degree (Master)

Responsible Department: Arabic Language & Literature

Academic year: 0

Semester: 2nd Semester

Teaching Languages: Hebrew

Campus: Mt. Scopus

Course/Module Coordinator: Dr. Kerstin Hunefeld

Coordinator Email: kerstin.huenefeld@mail.huji.ac.il

Coordinator Office Hours: Monday, 15-17 and appointment via email

Teaching Staff:
  Dr. Kerstin Hunefeld

Course/Module description:
  This course opens up perspective on the Islamic legal institution of dhimma as outlined in Zaydi law. We will work through both secondary literature and primary sources in Arabic, mainly Zaydi fiqh literature from Yemen (16th to 19th century), but also documents from 20th century Yemen providing insights into dhimma practice in Sanaa. Looking at the dhimma institution from different viewpoints, we will work out the complexity of some Dhimma rulings, their relation to both real politics and Islamic(-Zaydi) political theory, as well as the dhimmis' agency, or possibilities and boarders of participation in shariacate society.

Course/Module aims:
  This course aims to make students understand the phenomenon of "dhimma" in its legal, political, social, and cultural context. This comes together with a basic understanding of Zaydi political theory, the conditions for legitimate leadership (imamate) and its interplay with real politics.
In terms of sources, the course aims to introduce the genre of comparative Zaydi fiqh literature that is very rich as it does not only cite the Zaydi-hādawi opinion but refers to opinions from other schools of thinking, especially, the four main Sunni schools, the Imamiyya (12er).
Apart from its actual content, the course aims to arouse some theoretical and methodological consciousness. We will deal with the interplay between theory and practice, discursive orders, the subaltern, and the need or conceptualization

Learning outcomes - On successful completion of this module, students should be able to:
  students should be able to

- Give a brief balanced definition of what dhimma is.
- Critically discuss the ambivalence of both the dhimma institution itself and its treatment in (academic) research
- Outline the basic idea of legitimate leadership in Zaydi political thought and discuss its relation to the dhimma institution
- Give an insight into how a (fictive) Islamic legal discussion works, and how the application of Sharia law works in comparison to applying the legal code of a nation state or empire that has a civil law

Explain and discuss the inner logic of dhimma from different viewpoints
- what interest does an imam have to apply dhimmi law?

- name and explain 2-3 means that can help a dhimmi to strategize his/her/their agency
- what is the (possible, not necessarily) function of dhimma-law, status, and practice within the interplay between legal theory and political practice or structure an agency within shariacate political culture?

- Explain in own and easy words what a discursive order is, what it does, and give an example of it
- Explain in own and easy words what is the difference between conceptualizing a topic or researching it without conscious conceptualizing?

<u>Attendance requirements(%):</u>
  at least 85%

Teaching arrangement and method of instruction: From the beginning, the time will be divided half/half into the reading and discussion of the Arabic source text (mainly parts of the bāb al-siyar from Ibn Miftāḥ's Sharḥ al-Azhār) and the discussion of secondary literature, both of which has to be prepared by the students beforehand.

we will discuss the texts that we prepared at home and students might give presentations or moderate a discussion themselves. There might be some group work, field research, and smaller assignments.I like to bring small surprise texts, objects. etc. that will be discussed in relation to the reading assignments

The methods will also depend on weather we will meet on campus or zoom

<u>*Course/Module Content:*</u>

About the first third of all the sessions is dedicated to understand and discuss the approach, to assemble the necessary background information, such as basic knowledge on Zaydi Yemen, Islamic political thought, Islamic law and jurisprudence, the Islamic law of nations (siyar wa-jihād) Sharia governance, Dhimma research and the Jews of Zaydi Yemen, who were the only "protected people" (dhimmis) under Zaydi-hādawī law.

This is to understand why we are dealing with dhimma as part of the Islamic law of nations? What are the advantages in doing so? What does it mean to have a conceptual approach in opposite to do research without having one?
In relation to these opening contents we will have sessions or part of sessions

discussing theoretical concepts
in relation to our topic, such as "the order of discourse" (Foucault), "the (mis-)conceptualizations of Islam and anything that could be referred to as 'Islamic'" (Shahab Ahmed), "discursive tradition" (Talal Asad), or "habitus" (Boudieu). All of these concepts help to grasp the different facets of dhimma.

Regarding the study of the text, we will start from
Working out an understanding of the positioning of the relevant chapters within the opus as a whole, and then get into more detail. We will work out the complexity of some Dhimma rulings, by following the references made in the text, its commentary and glosses, and thereby understand how to read this kind of literature. References might be verses from the Quran, its tafsir, a Hadith, or the prophet's biography. On basis on a deep and exact but rather content than philology related understanding of the text, we will set out for thinking about possible political interrelations with legal theory, the relation between theory and practice as well as the possibilities of the dhimmis themselves to navigate through a day-to-day reality that - among other things – was determined by their being legally subordinated to their Muslim compatriots. Example will be drawn here from Petitions written by Jews to Imam Yaḥyā in relation to their being dhimmis from 20th century Sanaa, Yemen.

<u>Required Reading:</u>
 Required reading (to be updated):

We will not read all of this! This is just an orientation of what kind of texts we might read

Zaydi Yemen/Yemeni Zaydiyya:

vom Bruck, Gabriele, Islam, Memory, and Morality in Yemen: Ruling Families in Transition, New York, 2005.
Haykel, Bernard: Revival and Reform- The Legacy of Muhammad al-Shawkani, Cambridge, 2003.
Hoevden, Eirik, Hovden, Eirik, Waqf in Zaydi Yemen: legal theory, codification, and local
practice, Leiden; Boston: Brill, 2018.
Kohlberg, Etan, „Some Zaydī Views on the Companions of the Prophet", Bulletin of the School of Oriental and African Studies 39, 1 (1967), pp. 91-98.
Messick, Brinkley, Sharīʿa Scripts: A Historical Anthropology, New York: Columbia University Press, 2018.

—, *The Calligraphic State: Textual Domination and History in a Muslim Society.* Oxford, 1993.

—, *„Kissing Hands and Knees: Hegemony and Hierarchy in Shari'a Discourse", Law & Society Review 22, 4 (1988), S. 637-660.*

Islamic political thought, Islamic law and jurisprudence

Cook, Michael, Forbidding Wrong in Islam: An Introduction, Cambridge, 2003.

—, *Commanding Right and Forbidding Wrong in Islamic Thought, Cambridge, 2000.*

Hallaq, Wael B.: An Introduction to Islamic Law, Cambridge, 2017.

Kelsay, John: „Jihad", in: Gerhard Bowering et al. (Hg.), The Princeton Encyclopedia of Islamic

Political Thought, Princeton, 2011

Khadduri, Majd, The Islamic Law of Nations: Shaybānī's Siyar, Baltimore, 1966.

—, *War and peace in the law of Islam, Baltimore: John Hopkins University Press, 1962.*

Rosen, Lawrence, Law as Culture: An Invitation, Princeton, 2006.

Shahin, Emad El-Din: „Government", ", in: Gerhard Bowering et al. (Hg.), The Princeton

Encyclopedia of Islamic Political Thought, Princeton, 2011,

Stewert, Devin J.: "Sharia", in: Gerhard Bowering et al. (Hg.), The Princeton Encyclopedia of

Islamic Political Thought, Princeton, 2011, pp. 496-505.

Dhimma, non-Muslims under Islamic rule, Jews of the Islamic(ate) World /Zaydi Yemen

Cohen, Mark R., Under Crescent and Cross: The Jews in the Middle Ages, Princeton, 2008. (new Introduction)

Dallal, Ahmad, „Yemeni Debates on the Status of Non-Muslims in Islamic Law", Islam and Christian-Muslim Relations 7, Nr. 2 (1996), pp. 181-192.

Emon, Anver, Religious Pluralism and Islamic Law: Dhimmīs and Others in the Empire of Law, Oxford, 2012.

Friedmann, Yohanan, "Minorities", in: Gerhard Bowering et al. (Hg.), The Princeton Encyclopedia of Islamic Political Thought, Princeton, 2011

Friedmann, Yohanan, Tolerance and Coercion in Islam: Interfaith Relations in the Muslim Tradition, Cambridge, 2003.

Gilson Miller, Susan, „Dhimma Reconsidered: Jews, Taxes, and Royal Authority in Nineteenth-Century Tangier", in In the Shadow of the Sultan: Culture, Power, and Politics in Morocco, Rahma Bourqia (ed.), Cambridge, 1999. pp. 103-126.

Ibn Qayyim al-Ǧawzīya, Aḥkām ahl al-ḏimma, Kairo, Sayyid ʿAmrān (Hrsg.), Kairo, 1426/2005.

Wagner, Mark S., Jews and Islamic Law in Early 20th-Century Yemen, Bloomington, Indianapolis: Indiana University Press, 2015.

Theoretical texts:

Ahmed, Shahab, What is Islam? The importance of being Islamic, Princeton: Princeton
University Press, 2015.
Asad, Talal, The Idea of an Anthropology of Islam, Washington DC: Georgetown University,
Centre for Contemporary Arab Studies, Washington DC: Georgetown University,
Centre for Contemporary Arab Studies, 1986.
Bourdieu, Pierre, The Logic of Practice, Cambridge, 1995.
—, "Social Space and Symbolic Power", Sociological Theory, vol. 7 (1989), pp. 14-25.
Foucault, Michel, "The Order of Discourse." (1970) In Archives of infamy: Foucault on State
Power in the Lives of Ordinary Citizens, ed. Nancy Luxon, pp. 141-173, Minneapolis, London: University of Minnesota Press, 2019.

Main source being read in Arabic:
Ibn Miftaḥ, Abū'l-Ḥasan ʿAbdallāh and al-Imām Aḥmad b. Yaḥyā al-Murtaḍā, Šarḥ al-Azhār: Kitāb al-Muntazaʿ al-muḫtār min al-Ġaiṯ al-midrār al-mufattiḥ li-kamāʾim al-Azhār fī fiqh al-aʾimma al-aṭhār, 4 vols, Fotocopy-Edition including glosses and comments by Muṭahhar b. Yaḥyā b. Ḥasan al-Kuḥlānī (1330-1377/1912-1957), ʿAbd Allāh Ġamdān (ed.), no place., no year., based on the 4 vols edition from 1323/1905-6 Egypt, that was edited by Šaiḫ ʿAlī Yaḥyā al-Yamānī.
—, Šarḥ al-Azhār: Kitāb al-Muntazaʿ al-muḫtār min al-Ġaiṯ al-midrār al-mufattiḥ li-kamāʾim al-Azhār fī fiqh al-aʾimma al-aṭhār, 10 vols, Ṣaʿda, 1464/2003.

 Additional Reading Material:
  information follows

  Course/Module evaluation:
  End of year written/oral examination 0 %
  Presentation 30 %
  Participation in Tutorials 0 %
  Project work 0 %
  Assignments 30 %
  Reports 0 %
  Research project 0 %
  Quizzes 0 %
  Other 40 %
seminar paper

Additional information:
  Apart from students of Islamic law, the course might appeal to students interested

in Yemen or the Jews of Yemen. However, good Arabic reading skills are required. I will adjust the course to the students' preexisting knowledge, skills, and interests once we've met.
Any questions, please write me an email.
Looking forward to met you all!