

**WHAT DOES QURAN SAY
ABOUT
THE EXCHANGE OF
FUTURES
FOR OLIVE OIL?**

What About Law?

- ▣ DEFINES WHAT IS ACCEPTABLE
- ▣ AND WHAT IS NOT ACCEPTABLE
- ▣ NEEDS TO BE REASONABLE
- ▣ NEEDS TO BE UNIFORM (Standard in space)
- ▣ AND REPLICABLE (Standard over time)
- ▣ NEEDS TO BE MODIFIABLE

Formation of “the Islamic Law”

- ▣ From the Ridda Wars to Muawiya:

- Territorial expansion
- Informational expansion
- Philosophical expansion

- ▣ The problem: Rapid expansion

- ▣ The solution: Qadi

- ▣ The questions:

1. Who gets to be a qadi?
2. Why should you trust a qadi?
3. Where can you find a qadi?





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Formation of “the Islamic Law”

- ▣ If you were a qadi in Kufa during the Umayyad caliphate, would you get along fine with a qadi in Damascus?

Why?

Formation of “the Islamic Law”

- ▣ Uniformity of the Qadis: The role of the caliph:

With the advent of the Abbasids, the central government took an active role in encouraging the development of a legal system based explicitly upon Islamic values.

Why?

Formation of “the Islamic Law”

▣ Do you need uniforms for **uniformity**?

- Sunna

- Hadith

 - ▣ Bukhari (870)

 - ▣ Muslim (875)

▣ How do you get the qadi think alike?

According to tradition, literally hundreds of "schools" of law (***madhhab***) emerged across the empire during the ninth century.

Formation of “the Islamic Theology”

▣ **What is theology?**

- Identification of principal themes within the scriptures as a whole to clarify ambiguities within specific passages, with the goal of applying the principles found within the scriptures to specific situations confronted in everyday life.

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ABOUT
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**WHAT IF QURAN DOES
NOT KNOW BEANS
ABOUT THE EXCHANGE
OF FUTURES
FOR OLIVE OIL?**

**People listen to you
better when you tell
them what they would
like to hear**

Formation of Organized Judiciary in the Muslim World

▣ **Umayyad Caliphate (661-745)**

- The Environment of Early Qadis:
 - ▣ Importance of local reputation
 - ▣ Non-uniform determination and application of law.
 - ▣ Importance of former laws and local customs

▣ **Abbasid Caliphate (745-1258)**

- The Environment of Later Qadis:
 - ▣ Importance of theological debates
 - ▣ Importance of studies on traditions (*hadith*).
 - ▣ Crystallization of Schools of Law (*madhab*)

Intermission: A Note on Hadith

- ▣ Traditions on Muhammad's sunna: *hadith*
 - His actions (*fi'l*)
 - His words (*qawl*)
 - His comments on others' acts (*taqrir*)

- ▣ What do we do when we do/say/comment?

- ▣ Two important compilers:
 - Muhammad al-Bukhari's (d.870) 7275 hadiths
 - Muslim bin al-Hajjaj's (d.875) 9200 hadiths

Intermission: A Note on Hadith

▣ Examples:

- “No man is a true believer unless he desires for his brother that he desires for himself.”
- “That person is nearest to God, who pardons...him who would have injured him.”
- “The ink of the scholar is more precious than the blood of the martyr.”
- “Women are twin-halves of men.”

▣ How would you know if a hadith is accurate?

- Degrees of hadith: strong vs. weak

Formation of “the Islamic Theology”

Mu'tazilites (mid-ninth century):

Mu'tazilism was the result of a desire to use Greek concepts and methods of argument in the defense of Islam.

They showed to non-Muslims that Islamic beliefs were in accord with reason, and defended reason against those Muslims who insisted on the sole efficacy of faith.

They were the first group of Muslim thinkers to give a systematic, rational treatment of religious beliefs.

Formation of “the Islamic Theology”

Mu'tazilites and “Justice”

If God is just, then He can punish only if man is responsible for acting in an evil way, and man can receive a reward only if he is capable of doing the good on his own power.

What does this say about (wo)men's capacity to act and decide?

What does this say about God's authority?

Formation of “the Islamic Theology”

Reaction to Mu'tazilites: **Hanbalis**

Ahmad ibn Hanbal (d.857):

Acts are good or bad because God had decreed them so and it is impious to reason why or whether they are so.

(Wo)men should rely on Quran, hadith and the knowledge from “trustworthy” sources, and should avoid using his/her reason unless they have to.

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Would Allah like you to be capable of
differentiating good from evil?

- a) Yes
- b) No
- c) Sometimes
- d) Why would Allah care about this?

in the absence of clear reference...

Mu'tazilites

(Wo)men are capable of differentiating between good and evil. Therefore, they should (carefully) reason in order to find the right answer.

Hanbalis

(Wo)men should refer to the companions of Muhammad and then to the weak hadiths, and only then they can use reason at their own risk.

FROM THEOLOGY TO LAW

“Reason” ...

- ...or not

“Decision Making”

“Justice”

- Deciding between right and wrong

Who gets to decide?



Maqamat Al-Hariri 13th century

“And if any tidings, whether of safety or fear, come unto them, they noise it abroad, whereas if they had referred it to the messenger and to such of them as are in authority, those among them who are able to think out the matter would have known it. If it had not been for the grace of Allah upon you and His mercy ye would have followed Satan, save a few (of you)” (Qur'an 4:83)

PHILOSOPHERS AND THEIR PATHS

Shari'a: "the path"

Different theologies ...

... and different paths to "Justice"

The authority of important philosophers and
their legitimacy

Different theologians' "paths" = Different
schools of law.

- Law schools vs. schools of law

PHILOSOPHERS AND THEIR PATHS

Abu Hanifa (d. 767)

and the Hanafi School

Malik ibn Anas (d. 796)

and the Maliki School

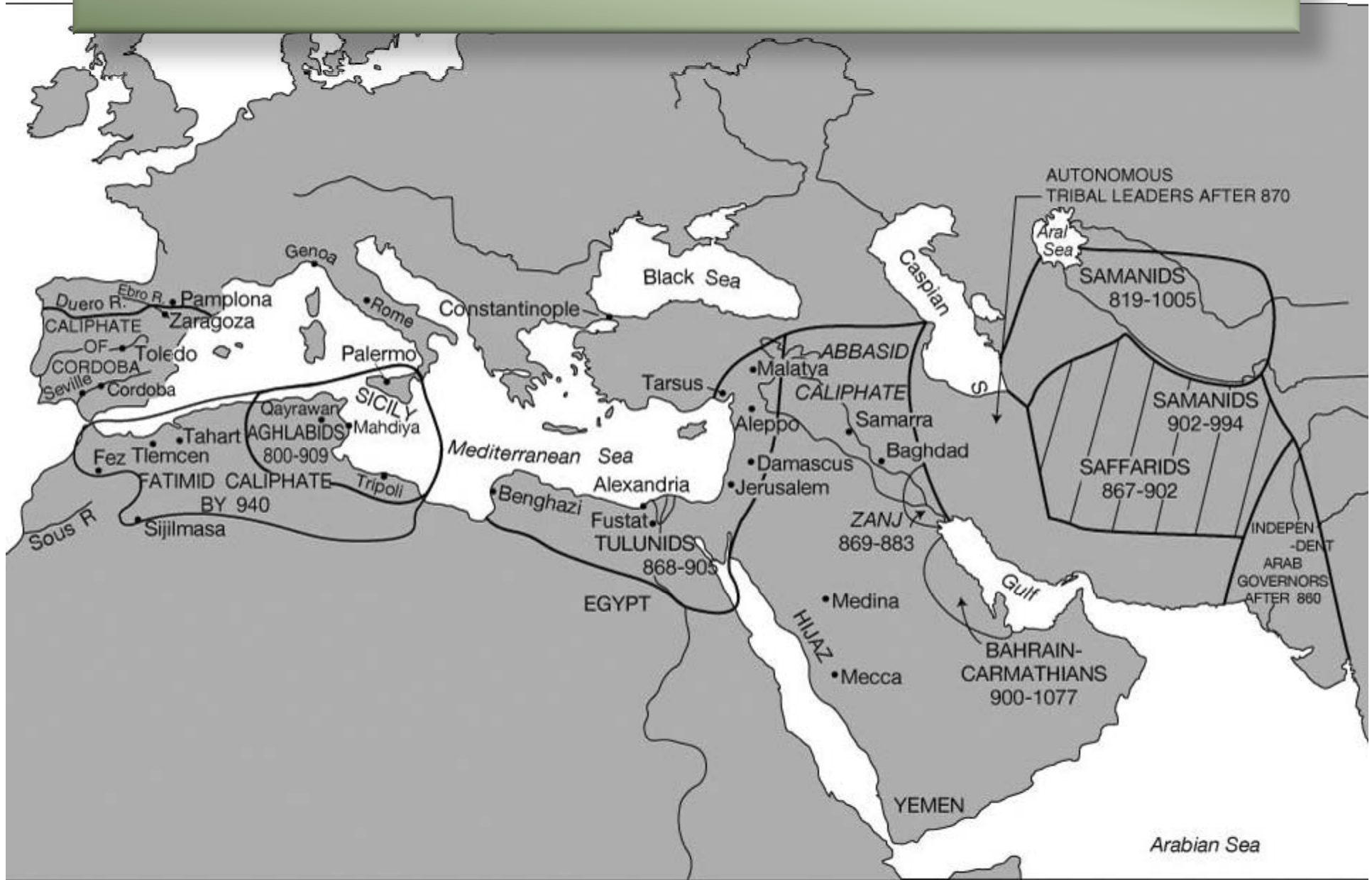
Ahmad ibn Hanbal (d. 857)

and the Hanbali School

Muhammad ibn Idris al-Shafi'i (d. 820)

and the Shafi'i School

Muslim World and Its Fragments



Limits of Shari'a

- 1. Many paths for different people**
- 2. Life outside of the religious sources**
- 3. The problem of evidence**
- 4. Mystical movements and earthly residence**