RELIGION, LAW AND MODERNITY: EUROPE AND THE MIDDLE EAST
L05 3579.001

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Religion has been an integral ingredient in thought, culture and civilization for much of recorded history. Law and judicial institutions were also strongly coloured by religious traditions and personnel until recent times. Modern social thought since the eighteenth century has included strands which heralded the demise of religion as part of processes of progress and rationality. This issue has been central to social and political contests and revolutions ever since, in Europe and then in many other parts. The historical transformations of modernity, reaching their peak in the twentieth century, included secularization, notably of law. Yet, in the closing decades of the last century religious ideas and movements have risen to prominence in many parts of the world, notably Muslim-majority countries. This course will explore these issues in a comparative perspective, looking at religion and modernity in Europe and the Middle East. Modernity in the Middle East, partly carried by colonial and European examples, led to diverse outcomes: religious reform, secularization and ‘fundamentalist’ reactions. Law plays a central role in the contests and debates that ensued.

General Reading

- John Bossy, *Christianity in the West 1400-1700*, London 1987
- Niyazi Berkes, *The Development of Secularism in Turkey*, Montreal 1964
- Sami Zubaida, *Islam, the People and the State: Political Ideas and Movements in the Middle East*, London 1993
Religion and Law in Social and Political Theory

1. Religion and law in evolutionary and comparative perspectives: Montesqieu, Maine and Robertson Smith

‘Except the blind forces of Nature, nothing moves in this world which is not Greek in origin’, wrote Henry Maine. This seminar will consider themes in earlier social theory which dealt with Europe in relation to other societies and civilization in terms of law and religion, in evolutionary or comparative perspectives.

- Bryan R Wilson, Religion in Sociological Perspectives, Oxford University Press 1982
- Raymond Aron, Main Currents in Sociological Thought, Volume 1, London 1965, ‘Montesquieu’ 13-56

2. Max Weber: the Uniqueness of the West

Weber’s social theory presents the most cogent statement of the problematic of religion, rationality, law and modernity, and the contrast between East and West. Weber’s contributions remain at the centre of modern preoccupations in academic fields and in public discourse. It is also the starting point for
consideration of the Reformation as a precursor to European modernity. These will be the themes discussed in the two seminars on Weber.


3. Max Weber: Law

- Patricia Crone, Weber, Islamic Law and the Rise of Capitalism, Huff and Schluchter, as above, 247-272

**Europe: Reformation and Enlightenment**

4. A world imbued with religion: Febvre


5. The law: Church and King

• Stephen Kuttner, The History of Ideas and the Doctrines of Canon Law in the Middle Ages, London 1980
• *Sami Zubaida, Law and Power in the Islamic World, London 2003, Chapter 3

6. The Reformation
• John Bossy, Christianity in the West 1400-1700, Oxford 1985
• Sheldon Wolin, Politics and Vision: Continuity and Innovation in Western Political Thought, London 1961, Chapter 6: Calvin: the Political Education of Protestantism

7. Secularization
• Owen Chadwick, The Secularization of the European Mind in the 19th Century, Cambridge 1975
• E. Barker, J. Beckford and K. Dobbelaere, eds., Secularization, Rationalism and Sectarianism: Essays in Honour of Bryan Wilson, Oxford 1993

The Middle East and Islam

8. Muslim law: the fiqh tradition
• Brinkley Messick, The Calligraphic State: Textual Domination and History in a Muslim Society, Berkeley 1993, Part 1, 1-72
9. Islamic reforms and the law: the ideas

- *Noel Coulson, Conflicts and Tensions in Islamic Jurisprudence*, Chicago 1969, Chapter 1
- *Zubaida, Law*, Chapter 4, 121-157
- Coulson, *Conflicts*, Chapter

10. Modern legal institutions and the place of the Shari’a: Egypt

- *Zubaida, Law*, Chapter 5, 158-181

11. The Islamic Republic of Iran and its law

- *Zubaida, Law*, Chapter 6, 182-219
- *Ervand Abrahamian, Khomeinism*, London and NY 1993, pp 1-59

12. ‘Fundamentalism’ and secularization

- *Zubaida, Law*, Chapter 4 and Conclusion
- Serif Mardin, *Religion and Social Change in Modern Turkey*, Albany 1989, Chapter III, 103-146
13. Human Rights and the Position of Women


14. Concluding Seminar