

Religion and Culture in Medieval Islam

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1 · Religion and culture in classical Islam and the Christian West

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In the Middle Ages, the intimate relation between religion and culture was nowhere more intimate or interrelated than in a movement later named “scholasticism.” This name, which was meant to be derogatory, was applied to the movement during the period of its decline, long after it had come into existence. With the passage of time, the name acquired several meanings, and since the nineteenth century, has come to designate scholastic philosophy. As such, it stands for the very antithesis of what the movement originally represented; that is, the exclusion of philosophy. Originating in Islam, the movement began in the second half of the ninth century, vigorously developed in the tenth, and reached its zenith in the eleventh. Some time in the first decades of the twelfth century, it appeared in the Christian West, where it followed two different lines of development: one in Bologna, the other in Paris. In classical Islam, its institution *par excellence* was the college; in the Christian West, the university.

The interest this movement has for us today is twofold: it is at the basis of our own system of higher learning; and it is a key to the understanding of certain developments in religious and cultural history in modern times, as well as in the Middle Ages. As such it has a claim on our attention at least as great as any other intellectual movement in history, for without it we would not have some of the most important institutions we have today. By inquiring into its origins, we are afforded a better understanding of certain religious and cultural developments in modern times.

Scholasticism: a movement and a method

For the present purpose, let us understand scholasticism as a *movement* and a *method*: a movement of conservative traditionalist religion and intellectual culture, and a method of professional higher

learning. It was legal science, not philosophy, that lay at the roots of this movement. As such, it found its way to the Christian West, to a law school in Bologna. The scholastic method it developed was applied first in Bologna, then in Paris, cities that were to become the homes of Europe's two original university models.

As movement and as method, scholasticism was shared by two medieval civilizations only, classical Islam and the Christian West, to the exclusion of the Christian East. Dom Jean Leclercq, who has written extensively on Christian monasticism, came to the conclusion, in one of his studies, that one could distinguish in the Christian West two Middle Ages, one monastic, the other, scholastic; that the monastic Middle Age was closer in its mental structure to that of eastern Christianity than it was to that of the scholastic Middle Age.¹ If such a statement could be made it is because the scholastic Middle Age was not originally a Christian product. Both Middle Ages, the monastic and the scholastic, had arisen in the East: the former, in Christianity; the latter, in Islam.

Christopher Dawson, a historian who has written extensively on the relation between religion and culture, has said that "in many respects the Christian culture of the past resembles the culture of Islam more than it resembles modern Western culture."² If such a statement could be made, it is because Islam and Christendom shared the scholastic movement's religious intellectual culture. There is good reason for considering, with Christopher Dawson, the twelfth and the thirteenth centuries as constituting the classical period of western Christendom;³ for the twelfth was the formative century of scholasticism, and the thirteenth the period of its zenith. The formative period of Islamic scholasticism was that of the ninth and tenth centuries, and the zenith of its development the eleventh. Thus the classical periods of the worlds of Islam and Christianity coincide with their respective periods of scholasticism.

Scholasticism: a fitting name

All things considered, "scholasticism" was a fitting name for the movement; for its adherents established new types of schools, professionally organized for the first time in history and based on legal perpetuity. They created a legal science, a method of research and writing raised to an art and leading to a professional license to teach, in an autonomous scholarly system which we call today "academic freedom." If the name was meant to be derogatory, it is perhaps because the humanists who named it had their attention focused on

the period of its decline, when it had become a caricature of its former self; they themselves had no such schools, and tended to prize self-teaching. But their feelings toward the movement notwithstanding, the humanists eventually adopted the institutions of scholasticism.⁴ The same is true of modern times, which have maintained the essential elements of the Islamic scholastic structure, a structure the classical Christian West successfully preserved in perpetuity.

Scholasticism is an excellent example of the two-way relation between religion and culture, in which each had its impact on the other throughout the course of their development in the Middle Ages. Its history in the land of its origin, the Islamic East, illustrates the influence of religion on culture; in the land of its adoption, the Christian West, its history illustrates the influence of culture on religion. For the first time in history, the interaction of religion and culture led to the professional higher learning which we continue to enjoy today. But modern western culture has for centuries considered itself so directly related to classical antiquity that the notion of relating it to religion and the classical period of Christendom must seem very far-fetched, let alone relating it to the classical period of Islam. Yet this is what I shall attempt to do here, especially with respect to the reception of scholasticism in Bologna.

The objective of the western scholar who studies Islam is to make it known to members of his own culture. During my student years, I had no idea that I would change my field from western to Islamic studies. Coming to Islamic studies at the level of the doctorate, and after three degrees in American and European political and cultural history, I was surprised to see that western scholars introduced their students to Islamic culture through the study of the Islamic religion. Many books were available on the subject of Islamic beliefs and institutions. This was for me a new experience; for in my introduction to western culture religion had had no place; it was as though it had no connection with western culture. In those first years after the Second World War, the mid-forties, fresh out of the American army from the European theatre of operations, and eager for university studies after two years of trudging through Europe, I applied for the "GI Bill" for university studies, to learn more about the Europe I had come to know during the war. The courses I took, in one of our great universities, included one that consisted in the works of five major authors: Plato, Lucretius, Descartes, George Berkeley, and William James, essentially works of philosophy and psychology.

Though I was later surprised at the difference in approach to the

two civilizations, it was some time before I came to realize the full significance of that difference. The course I took on western thought is a perfect example of the notion that modern western culture was directly linked to classical antiquity. One will readily notice, in that course of readings, the time gap between Lucretius and Descartes – a leap over fifteen centuries of medieval thought. In one fell swoop, the entire Middle Ages, keystone of western culture, including the patristic period, were made to disappear. Moreover, from classical antiquity Plato was chosen, not Aristotle, the favorite of the medieval schoolmen, to whom he was “*the Philosopher*.”

Since this was the attitude toward our own Middle Ages, the corresponding period in Islam could hardly be expected to get a fair hearing. This attitude toward the Middle Ages reflects those of the Renaissance and of the Reformation, a cultural movement and a religious movement that sought to skip the Middle Ages altogether: the Reformation, to establish a direct connection with classical antiquity. To this end, they bypassed long centuries of religion and culture, of history and tradition, leaving as a legacy to modern times a prejudicial attitude toward the Middle Ages.

Fortunately, since the latter part of the nineteenth century and the first decades of the twentieth, western historians of the Middle Ages have been hard at work redressing the wrong in historical writing against that period. Charles Homer Haskins challenged historians of the Italian Renaissance when he chose to entitle one of his books *The Renaissance of the Twelfth Century*.⁵ Thanks to such scholarly efforts, medieval studies have been enjoying well-deserved success throughout our present century. But scholarship has yet a long way to go before bringing objectivity to all aspects of medieval studies. For while the medieval period of western intellectual history has found its advocates, the attitude of western historians toward religion, Islam as well as Christianity, has not quite shaken itself free of the legacy of the Renaissance and of the Reformation, further aggravated by the prejudice borne toward religion by the Enlightenment and the Revolution.

It was not until the third decade of study and research in Islam that I began to feel the need to turn back once again to western European studies. I had become aware of a kinship, in form and content, between the *summa* on law and theology by the eleventh-century Ibn ‘Aqīl of Baghdad in eastern Islam, and the *summa* on theology and law by the thirteenth-century Thomas Aquinas, of Roccasecca and Naples in southern Italy.⁶ The more I delved into the two intellectual cultures for background on these two religious intellectuals, the more

I was surprised to find that their cultures threw light on one another: each became, so to speak, a mirror in which the other could find its reflection. These two intellectuals had written their two works in the same spirit, following essentially the same method and the same structure. It was only a matter of time to discover that the institutions of learning, in which the training for such works was obtained, were fundamentally related.⁷

Unlike the fields of philosophy and science, where the evidence for their reception in the Christian West is based on translations from Arabic into Latin, the reception of Islamic scholasticism occurred chiefly through silent penetration. This reception is evident in the essential elements of the scholastic structure. The claim that the institutions of this scholastic structure were the result of a "natural and spontaneous development" ignores the nature of social institutions, which are the embodiment of antecedent traditions. The presence of institutions in a culture devoid of antecedents for them suggests their reception from another culture with the requisite antecedents. Such is the case, in my view, with respect to the presence of scholasticism in the Christian West, the antecedents for which are found nowhere but in the Islamic East.

Scholasticism in classical Islam was based on a law which the famous jurist Shāfiʿī had raised to a legal science. He made this legal science to serve as a juridical theology, in order to counter the Rationalist theology of his adversaries. With the rise of Islamic colleges in the tenth century, it was this legal science/juridical theology that constituted the scholasticism of the legal guilds, taught in the guilds' colleges.⁸ It laid stress on the obligation of following the dictates of God's commands and prohibitions. Juridical theology consisted in the study of the "roots of law" (*uṣūl al-fiqh*), which were essentially the roots of obligation (*taklīf*). It did not speculate regarding the divine source of the law: God was not a subject of speculation; therefore, no philosophical theology. The advocates of juridical theology, the legal schoolmen, did not, could not, banish philosophical speculation from the minds of men; they simply excluded philosophical theology from the process of determining orthodoxy. Orthodoxy consisted in translating *knowledge* of the revealed law into the *practice* of obeying its dictates; it consisted in a positive correlation between knowledge (*ʿilm*) and practice (*ʿamal*), applicable first of all to the Prophet himself, and to his heirs, the religious intellectuals. The ideal religious intellectual was one who practiced what he preached.⁹

Islamic scholasticism thus consisted in a traditionalist conservative legal science. While keeping the essential elements of the Islamic

structure, scholasticism developed in Bologna along the Traditionalist lines of Islam, whereas in Paris it developed along the lines of Islamic Rationalism. Thus, what Islam had excluded from its guild schools was given *droit de cité* in the faculty of theology of the University of Paris. These two lines of development produced two types of universities: the University of Bologna, which served as the model for universities in southern Europe; and the University of Paris, the model for those of northern Europe.

Scholasticism in Bologna

The University of Bologna started as a center of studies in Roman law. This fact would seem to point to the absence of influence from Islam; but the development in Bologna was typical of Islamic legal scholasticism. It is therefore in the city of Bologna that the scholastic movement should be examined to find the reason for its reception there from classical Islam. But historians have generally concentrated on the origin of the university rather than on that of scholasticism,¹⁰ and have been attracted to Abelard and Paris rather than to legal science and Bologna, as one can see in Hastings Rashdall's *The Universities of Europe in the Middle Ages*.¹¹ The following headings are those of the first five chapters of that magisterial work: (1) "What is a University?"; (2) "Abelard and the Renaissance of the twelfth century"; (3) "Salerno"; (4) "Bologna"; and (5) "Paris."

These chapter headings reflect Rashdall's conception of the chronological development of the university movement. He gives precedence to Abelard and the twelfth century in Paris¹² because for him, as for other historians generally, scholasticism consisted of scholastic philosophy and scholastic theology, not of legal science. Yet he deals with Bologna before Paris, despite the fact that it taught legal science, to the exclusion of both philosophy and theology. Moreover, though he treats of Salerno before Bologna, Rashdall does not consider it to have been a university, and rightly so; but the fact that he treats it among universities, by way of introduction to them, has apparently prompted others to give it the status of a "proto-university."¹³ The European university movement, like the Islamic college movement before it, owes its existence to the scholastic movement which created the phenomenon of the scholastic guild, progenitor of the European university, as of the Islamic college; and scholasticism was originally, and above all, a movement of guild schools for professional legal science. It would therefore be more in keeping with historical chronology to place Abelard after Bologna

and before Paris. As for Salerno, it may usefully be kept in the place assigned to it, after the chapter on “What is a University?”, mainly to show what a university is not.

Rashdall accepted in the main the conclusions of his predecessor, Heinrich Denifle, on the origin of universities. These two great scholars on universities in medieval Europe tend to emphasize the importance of the license to teach.¹⁴ The Latin term for this license, *licentia docendi*, like so many other terms of scholasticism, is the literal translation of the Arabic term *ijāzat at-tadrīs*. This license was at the basis of the motive within Traditionalist Islam to create the scholastic movement; that motive was to monopolize, by means of the license, the authority to determine religious orthodoxy. An analysis of the essential elements of the movement’s structure would give us a definition of the college and of the university. For such an analysis would point to the basic relation between them, through the same scholastic function they were created to perform.

Some misconceptions

Before proceeding to this analysis, however, some misconceptions of medievalist historians of the West should be clarified. These involve the college, the license to teach, and the science of law. To begin with, the fact that “the university, as a form of social organization, owes nothing to the West,” as one author correctly quotes me, does not change the fact that both the Christian university and the Islamic college were scholastic guild institutions, and performed the same essential scholastic functions.¹⁵ The college was the first institution of learning of the Islamic scholastic movement; it was as essential to Islamic scholasticism as the university was to scholasticism in the Christian West. The more permanent of the two was the college, because of its financial base, namely the endowment of the charitable trust, lacking in the university corporation. Without the college and its endowments, the university could not have survived. Endowments enabled the scholastic institution to function independently, and its scholars to be free of external pressures. The college, as a guild school rather than merely a hospice, was an Islamic creation, as the university was a creation of the Christian West. The Christian West preserved and perpetuated the scholastic structure for posterity by adopting the Islamic scholastic guild and the Islamic charitable trust,¹⁶ by incorporating them both, and by fusing the college and the university into one institution, and thus creating the college-university.¹⁷

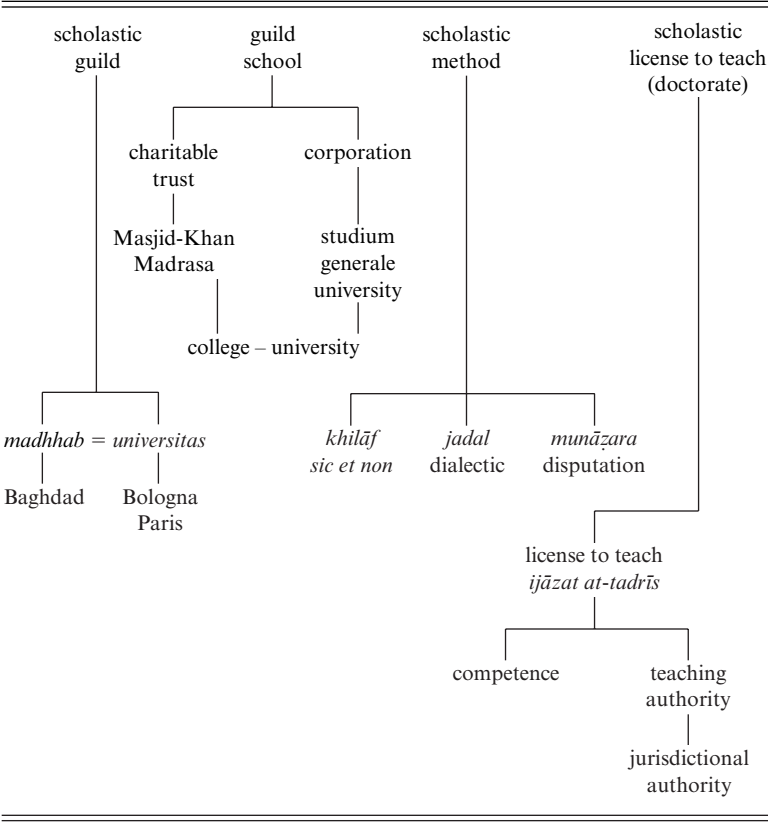
Second, the authority for granting the license to teach in classical Islam was always in the hands of the professors themselves; the same is true of the Christian West in the early period in Bologna, as well as elsewhere, as we shall have occasion to see. Moreover, the license to teach, like the college or the university, was a product of the scholastic movement. The license to teach was not simply a “teacher’s certificate,” as has been suggested;¹⁸ it did not only give evidence of competence, but also of authority:¹⁹ a religious authority qualifying its holder to participate in the determination of orthodox doctrine, and an intellectual authority qualifying the holder freely to profess original opinions, based on individual, personal research, and to make them public orally as well as in writing. That was its main purpose originally in Islam, and later in the Christian West, where the phenomenon of the Islamic license to teach, the doctorate, was eventually to become one of the factors leading to the Reformation, as will be seen presently.

And finally, legal science, believed to have been first developed in Bologna,²⁰ was achieved by Shāfiʿī in Baghdad, at the end of the second century of Islam (the eighth of our era), as has been made amply clear by Joseph Schacht.²¹ After the abortive *miḥnah* inquisition, from which the Traditionalist victims emerged victorious, the teaching of legal science was professionalized in the colleges of the Traditionalist legal guilds, as a juridical theology opposed to the philosophical theology of the Rationalists.²² In Bologna, it was the scholastic method of Islam that enabled the Italian jurists to develop their legal science, as will also be seen presently. **Table 1.1** shows the institutional structure of the scholastic movement.

Scholasticism: the institutional structure

The structure of the scholastic movement may be analyzed into four essential elements: the guild, the school, the method, and the license. The first essential element, the *scholastic guild*, was, in classical Islam, designated by the term *madhhab*; and in the Christian West, by the term *universitas*. As common terms, *madhhab* meant a way or direction followed, a course adopted; and *universitas* meant an aggregate of persons, the totality of a group. Both common terms came to stand technically for a scholastic guild, an entity constituting the membership of the scholastic profession in a given city. *Madhhab*, as a guild, was confined to legal science; this means that the license to teach was granted in Islam in the field of law alone. In the Christian West, *universitas*, as a guild, was originally confined to law in Bologna, but as

Table 1.1. Institutional structure of the scholastic movement



it later included theology, medicine, and finally the liberal arts, the license to teach, granted first in law, was later granted also in the other disciplines.

The earliest guild schools, not only in classical Islam but also in the Christian West, were colleges based on the law of the charitable trust. In the Christian West alone the university was based on the law of the corporation, that is, on fictitious juristic personality. At a third stage of development, the college-university was based on both forms of legal perpetuity: the charitable trust and the corporation. The college in Islam was first the mosque-inn complex, then the *madrasa*; in the Christian West, the university was known at first as *studium generale*, and only later as “university,” derived from *universitas*, the term coined for “guild.”

The revolution in higher learning was not only in the types of schools it produced, but also, and fundamentally, in the *scholastic method*, which led to the license to teach: the doctorate. It is the method and the doctorate that define the guild school, be it an Islamic college or a Christian university, in the classical periods of these two religious and intellectual cultures.²³ The scholastic method's three essential elements (i.e. the *sic et non*, *dialectic*, and *disputation*) point to the existence of a scholastic guild, be it *madhhab* or *universitas*. Where this method and the doctorate were not present, there could be no claim for the existence of either an Islamic college or a Christian university. The definition of either of these two institutions consists in its being a scholastic guild institution, in which the scholastic method was taught, leading to the doctorate, the license to teach.

The license to teach in Islam represented two elements: scientific competence and religious authority. The professor of law, as holder of the license to teach, was judged competent in the science of law, which was also a juridical theology, and authorized to participate in the determination of religious orthodoxy, through the legal opinions he professed. He, in turn, represented the legitimate authority to grant the license to teach. The legitimacy of his authority rested on the basis of the Prophetic Tradition, which says that "the religious intellectuals are the heirs of the prophets" (*al-ʿulamāʾ warathatu ʿl-anbiyaʾ*).

Thus scientific competence and religious authority, the two components of the doctorate, were invested in the professor of law who was, in turn, the person on whose authority the doctorate was granted to a successful candidate. In the early period in Bologna, as in Islam, the doctorate was granted on the authority of the professors of law; and in Paris, on the authority of the chancellor of the cathedral church. The Bologna professor's authority was based on scientific competence; that of the Parisian professor on religious authority. This anomalous situation led to different problems in Bologna and Paris, solutions to which were found later.

Rashdall treats these problems in the case of both universities. I shall quote only a few passages, with respect to Bologna and some other universities. He states that the Bologna masters "conferred in their own name the licence to teach and the student thus licensed became an actual doctor." He then goes on to say that "this unfettered liberty of the Bologna masters was, however, out of harmony with hierarchical ideas . . . it was contrary to the great University of Paris, where the *licentia docendi* had always been obtained from the chancellor of the cathedral church."²⁴ This practice was also that of

Montpellier, where the bishop alone had “the right of conferring the licence.”²⁵ He had “control over the conferment of licences in canon and civil law which he had always enjoyed in medicine; he procured a royal brief enforcing his claims, and authorizing him to demand of graduates an oath of obedience to his see.”²⁶ At the University of Angers, according to Rashdall, the professors “could even venture to grant licences on their own authority, without the sanction of bishop or chancellor.”²⁷

What Rashdall considered the “unfettered liberty” of the Bologna masters was simply the Islamic practice of conferring the doctorate. The scholastic guild functioned in the same way as a craft guild. The student became a doctor when the master under whom he studied considered that he had fulfilled all the necessary requirements, just as the apprentice in a craft-guild shop became a journeyman when the master under whom he learned his craft considered that he had fulfilled all the necessary requirements. These included the production of a “masterpiece,” whether by the advanced apprentice of a craft or by the graduate-student doctoral candidate.

The supreme product of the university, as of the Islamic college before it, was the doctor, the scholastic intellectual, holder of the license to teach. The doctor today is still the supreme product of the university; and the doctorate, in the best tradition, is still the license to teach in a university, and is still granted on the successful completion of a thesis, a “masterpiece” based on original research in which the essential elements of the scholastic method are still recognizable.

The scholastic method which appears to be, on the face of it, a mere school exercise, was, for classical Islam, the only method used to determine religious orthodoxy; for, as I have often had occasion to remark, unlike Christianity, Islam had no ecclesiastical hierarchy to determine orthodoxy through councils and synods.²⁸ In the Christian West, however, the method played two different roles: first, in intellectual culture, it served as the method of scholarship in higher learning which led to the dignity of the doctorate; and second, in religion, where, in theology, it played the role of rival to the teaching authority already in place, i.e. the authority to teach orthodox doctrine, held by the pope in union with the bishops. Thus the license to teach was a far more potent institution in scholasticism than a mere modern teacher’s certificate.²⁹

As the earliest license to teach in the Christian West was, like that of classical Islam, granted on the authority of the professors of law in Bologna and elsewhere, so also the earliest scholastic guild was like that of Islam: a voluntary association, without incorporation. More

than that, the earliest type of guild school was of the same type as that of Islam: based on the charitable trust, without incorporation. The incorporation of the scholastic guild and of its school was not to come until later. Rashdall writes as follows regarding the earliest type of guild, in Bologna, before the year 1158, and therefore before the university:

The guild was already in existence, but was merely, so to speak, a customary society, which existed in fact, though not on paper. Such an inference is strongly supported by the analogy of Paris, where we have positive evidence of the existence of a customary guild of masters, some ten or twenty years later, though it was not till fifty years after that that a single written statute existed, and not till a still later period that the guild was sufficiently organized to elect officers or use a common seal.³⁰

This early type of scholastic guild in Bologna, and later in Paris, was identical with the Islamic model. It was the only type of guild, without statutes, found in Islam where there were no corporations. Islamic law recognized juristic personality for a natural, physical person only, not for an abstract entity. Rashdall's statement thus confirms the existence of this type of Islamic scholastic guild in Bologna and Paris.

Besides the license to teach and the scholastic guild, we find in Bologna the Islamic type of law school. Unaware of the legal basis for this law school, Rashdall had doubts about it. Here is what he says: "A passage of the chronicler, Burchard of Ursperg, supplies us with an important clue towards the solution of the problem." The problem is in reference to the jurist Irnerius being the cause for the University of Bologna. Rashdall, who had a very high opinion of Abelard, had a rather low one of Irnerius, who he felt was of lesser intellectual rank. It was puzzling to him that Irnerius could be the whole "cause" for the origin of the University of Bologna, while Abelard was only "one of the causes" for the University of Paris.³¹ Rashdall goes on to quote the chronicler, who writes as follows:

Dominus Irnerius at the request of the Countess Matilda renewed the books of the laws, *which had long been neglected*, and, in accordance with the manner in which they had been compiled by the Emperor Justinian of divine memory, arranged them in divisions, adding perchance between the lines a few words here and there.³²

Rashdall then comments: "The notion that Matilda founded the School of Bologna, in the sense in which later emperors or kings founded universities, is of course on the face of it untenable."³³ Rashdall accepts the fact of the law school's existence, but not as a university, such as, for instance, Frederick II's University of Naples,

Table 1.2. *Guild law schools in Baghdad and Bologna*

Baghdad law school		Bologna law school
	founder of the charitable trust law school	
Nizām al-Mulk prime minister (d. 1092)		Matilda countess of Tuscany (d. 1115)
	law school founded specifically for	
Shīrāzī (d. 1083) professor of law		Irnerius (d. c.1125) professor of law
	for the purpose of	
teaching the scholastic method for the solution of conflicting legal opinions		teaching the scholastic method for the solution of conflicting legal opinions

founded in 1224. He considers that Countess Matilda’s foundation was not a university, and he is right; it was not a corporation, it was a charitable trust. Such foundations in Islam were created by private individuals without the prior authorization of the sovereign. This early law school of Irnerius in Bologna follows the model of a *madrasa*-college in medieval Baghdad, as can be seen in [Table 1.2](#).

Notice, in this table, that the first kind of guild school founded in Bologna was a law school based on the charitable trust, as in Baghdad; that the founder was a person of financial means; that this person founded the school for a particular professor named to the chair of law; and lastly, but most significantly, that the scholastic method was taught for the purpose of dealing with conflicting legal opinions.

The Digest of the *Corpus Iuris Civilis*

Legal historians have recently pointed out that the law school founded for Irnerius was for the study of Roman law,³⁴ that is, the Justinian *Corpus Iuris Civilis* which had enjoyed an uninterrupted existence in Italy, contrary to the previous notion that it had only been discovered in the first half of the eleventh century. This means that the Justinian *Corpus* had been steadily used, except for one of its parts, the *Digest*, which had been neglected. This interest in studying

the *Digest*, after the neglect mentioned by the chronicler Burchard, has intrigued western historians, and the answers recently given have already been declared inadequate.³⁵ In this case, as in others, I believe that the Islamic scholastic method has an adequate answer.

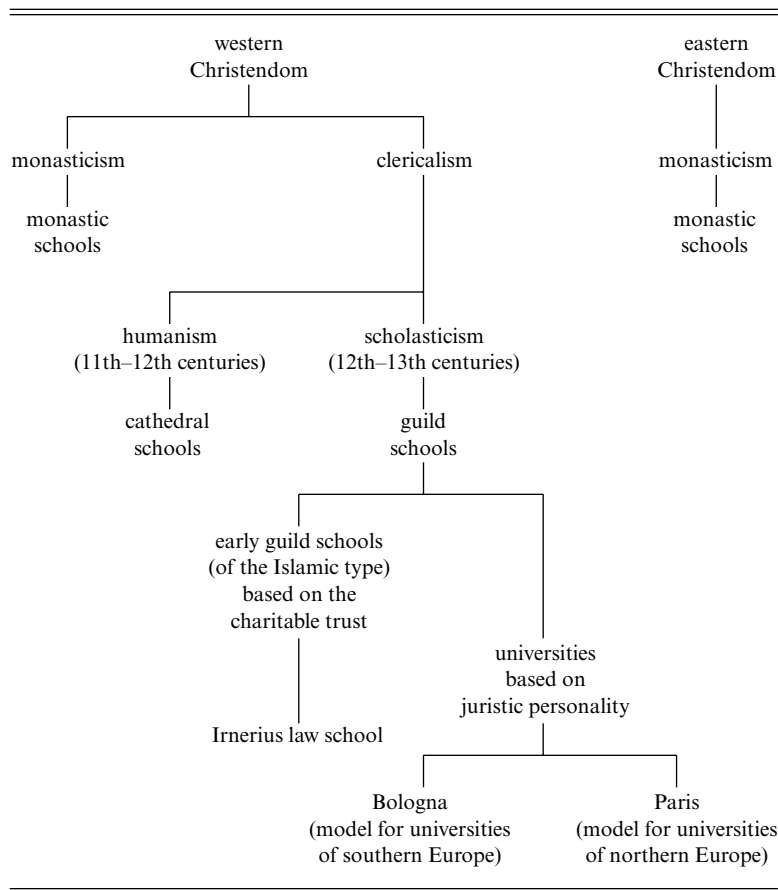
The Justinian *Corpus Iuris Civilis* is composed of four parts: the *Code*, the *Novels*, the *Institutes*, and the *Digest*. The *Code* deals with laws under the emperors before Justinian, and the *Novels* with Justinian's laws. The *Institutes*, a textbook, was studied by beginners in Roman law. These three parts of the *Corpus* were readily usable. But the *Digest*, greater than the other parts put together, was neglected because it consisted, not of imperial decisions readily usable, but of legal opinions of Roman jurists often conflicting.

The awakening of the Italian jurists to the *Digest*, in my view, points to the reception of the Islamic scholastic method in Italy in the early twelfth century, for this method was specifically created to deal with conflicting legal opinions. In other words, the study of the *Digest* was made possible by the reception of the Islamic scholastic method in Bologna. What gave rise to the scholastic guild school in the Christian West was therefore not primarily a matter of personalities, whether that of Irnerius or of Abelard, but of the Islamic scholastic method and its application to conflicting opinions. This method was used in three types of such opinions: legal opinions in the Roman law of the *Digest*, in the law school of Irnerius; legal opinions in canon law, in Gratian's *Concordance of discordant canons*; and theological opinions in Abelard's *sic et non*.

Scholasticism in Paris

The use of the scholastic method in Bologna, remaining as it did in the field of law, secured it from the hidden danger in Paris, where the use of the method ventured into the realm of religion, creating a rivalry with ecclesiastical authority. For the reception of scholasticism, in Paris, was a mixed blessing. It was both for better, and for worse: for better, in the realm of intellectual culture; for worse, in the realm of religion. Besides Bologna, eastern Christendom also escaped the pitfall of Paris, each in its own way: Bologna confined scholasticism to legal science, while the Christian east simply avoided Islamic scholasticism. Table 1.3 shows the point at which the different directions in higher learning took place in eastern and western Christendom.

The day of the monastic schools was on the wane, and with its passing the existing estrangement between eastern and western Christendom was further aggravated. An important factor contrib-

Table 1.3. *Intellectual movements and their schools in eastern and western Christendom*

uting to this estrangement was the rise of clericalism in the western cathedral school system, followed by scholasticism, as pointed out by Dom Jean Leclercq.³⁶ Leadership in learning in the Christian West was passing from the monastic to the cathedral schools in the eleventh century, its beginnings having taken place in the previous century with Gerbert of Aurillac. He was the first teacher in the cathedral school system known to have come in contact with Islamic learning. Besides Reims, where Gerbert was the *scholasticus* or principal of the cathedral school, there were other cathedral schools, such as those of Liège, Chartres, Laon, Tournai, and Paris where Abelard made use

of one of the essential elements of the scholastic method, the *sic et non*, already put to use by the Italian jurists in Bologna.

There was a time when intellectual culture, in eastern and western Christendom, looked very much the same: when learning was acquired in their monastic schools. The aggravated estrangement between the two Christendoms begins with the advent of the learned "clerks" of the West, first in the cathedral schools of humanism and later in the guild schools of scholasticism. This entire development was absent in eastern Christendom; and the scholastic theology of Paris was altogether foreign to the concept of monastic theology in eastern Christianity.

The affinity between classical Islam and the Christian West in intellectual culture was not shared by the Christian East. The ninth-century Photius (d. c. 891), patriarch of Constantinople, had made use of the *sic et non* method long before Abelard, as Grabmann has pointed out.³⁷ Having served as ambassador of Byzantium to Baghdad, Photius had no doubt come in contact with the method, in the disputations performed at the caliphal court, in honor of foreign emissaries.³⁸ But there was no sequel to the *sic et non* of Photius: eastern Christendom remained attached to its monasticism and monastic schools. Its alienation from the Christian West preserved it from what was later to develop.

In Paris, the reception of the Islamic scholastic method was fraught with unsuspected peril. To begin with, instead of applying the *sic et non* method to conflicting legal opinions, as in Italy, Abelard applied it to conflicting opinions of the Church Fathers. He compiled over 150 of their apparently contradictory statements. When, a generation or two after Abelard, the University of Paris came into existence, the scholastic method, now complete with all its essential elements, was applied to philosophical theology. The nineteenth-century scholar Charles Thurot wrote on the significance of this development in theology at the University of Paris, and on the religious importance given to the opinions of the professors of the faculty of Theology.³⁹ As already mentioned, the doctorate in Islam represented not only competence but also religious authority, a jurisdictional authority to determine orthodoxy. It was not long before the doctorate in the Christian West recovered this religious teaching authority in the faculty of Theology of the University of Paris, eventually rivaling that of the ecclesiastical hierarchy. When finally Martin Luther came upon the scene, with his theological theses as doctor of theology, the ground had already been prepared for him by the Parisian faculty. It is ironic that the doctorate, the highest achievement of scholastic learning, a learning that Luther held in contempt

(except for the doctorate to which he attached great importance), should have been the scholastic element providing the spark to ignite the Reformation. Another irony was that of the humanists of the later Italian Renaissance, who made use of the entire structure of the scholastic system – guild, school, method, and doctorate – products of the very movement that they, too, generally held in contempt.

Scholasticism in the structure of power of classical Christendom

The scholastic movement not only revolutionized higher learning, it also introduced a third power in the religio-political structure of western Christendom. Until the thirteenth century, the principal elements of the power structure had consisted of the papacy and the empire. By the second half of the century, scholasticism had provided a third element to the equation, represented by the faculty of Theology of the University of Paris. The spiritual and the temporal were thus joined in the person of the professional religious intellectual, forming the famous triad of power of the thirteenth century: the *sacerdotium*, the *imperium*, and the *studium*; that is, the papacy, the empire, and the scholastic system of higher learning.

It is on the basis of this new element in the medieval power structure that Rashdall, though unaware of the reason for the emergence of this power, declares his history of medieval European universities to be as justifiable as histories of the papacy and of the empire. For it is on the basis of the power of the *studium* that the faculty of Theology of the University of Paris passed judgment on problems involving Christian doctrine, and the popes and bishops ratified the opinions that had received the consensus of the university professors as doctors of theology. It is this authority that the contemporary St. Thomas Aquinas identified as the professorial teaching authority in religion, while identifying the ecclesiastical authority as that of the pontiff or pastor. It is on the basis of this same doctoral-professorial authority that Luther, as doctor of theology, could justify his opinions as authoritative. This authority, which made its appearance in the Christian West in the thirteenth century, introduced the principle of individualism in the centuries-old hierarchical principle of Christianity, and its consequences remain with us today, in our modern Catholic universities, in the *ex cathedra* pronouncements of the professor-doctor occupying the chair of sacred theology.

To sum up: in this chapter I have attempted to show how the interactive relation of religion and culture in the Middle Ages gave rise to

the scholastic movement, source of our modern structure of professional higher learning. It began with the impact of classical antiquity's culture on Islam, causing the reaction of the Traditionalist jurisconsults to create an intellectual culture, which in turn had its impact on the intellectual culture of the Christian West, and this, in turn, on the Christian religion. Christopher Dawson was right in stating that "it is impossible to understand the culture unless we understand the religion that lies behind it."⁴⁰ The scholastic method was a product of the Islamic religious development, vital for the determination of Islamic orthodoxy; nothing in the Christian religion called for such a system.

There is no denying that classical antiquity informs much of our modern intellectual culture; but this culture is also undeniably related directly to medieval culture and religion. The fundamental structure and spirit of its higher learning are directly related to the classical periods of Islam and Christendom. We often think of our institutions of higher learning as products of our modern times, which, although they originated some time in the distant Middle Ages, have so changed as no longer to bear any fundamental relation to their origins. Yet when one analyzes the essential elements constituting the organization of higher learning, neither the intellectual movements of modern times nor the humanist movement of the Italian Renaissance have added anything essential to these constituent elements: the type of schools, their legal basis of perpetuity, the basic scholarly method, the doctorate as symbol of academic freedom and authoritative opinion, briefly, the very soul of professional higher learning. This is the legacy of classical Islam and classical Christendom to the modern world; a legacy of the interaction of religion and culture – a legacy the future of which depends on the preservation of their essential elements, particularly academic freedom.

In modern times, due credit for this legacy must also be given to the Supreme Court of the United States for preserving the rights of the incorporated charitable trust, as in the case of *The Trustees of Dartmouth College v. Woodward*.⁴¹ The majority opinion of the Supreme Court, led by Chief Justice John Marshall (in 1819), thus protected the private institutions of learning and, by preventing the individual states from appropriating those within their boundaries, gave impetus to the subsequent creation of state institutions of higher learning. At a time when Europe appears to be moving away from the principle of academic freedom and professorial tenure, the university community in America must once again be on its guard, as it was in the first decades of this century, when it created the American

Association of University Professors (AAUP), to protect the principle of academic freedom.

Notes

- 1 J. Leclercq, "Médiévisme et unionisme," *Irenikon*, 19 (1946), pp. 6–23, esp. pp. 21 ff.
- 2 C. Dawson, *The Historic Reality of Christian Culture: A Way of the Renewal of Human Life*, Religious Perspectives, ed. R. N. Anshen, 1 (London: Routledge & Kegan Paul, 1960), p. 71.
- 3 *Ibid.*, p. 112.
- 4 Cf. G. Makdisi, *The Rise of Humanism in Classical Islam and the Christian West* (Edinburgh: Edinburgh University Press, 1990), pp. 53 ff.
- 5 Cf. C. W. Hollister, *The Twelfth-Century Renaissance* (New York: John Wiley & Sons, 1969), p. 1.
- 6 G. Makdisi, *The Rise of Colleges: Islamic Institutions of Learning in Islam and the West* (Edinburgh: Edinburgh University Press, 1981), pp. 245 ff.
- 7 *Ibid.*; Makdisi, *Rise of Humanism*, part 1.
- 8 On legal guilds in classical Islam, see G. Makdisi, "La corporation à l'époque classique de l'Islam," in G. Makdisi, *Religion, Law and Learning* (Aldershot: Variorum, 1991), no. X; and G. Makdisi, "The Guilds of Law in Medieval Legal History: An Inquiry into the Origins of the Inns of Court," in *ibid.*, no. XI.
- 9 The Arabic phrase *al-'alim al-'amil* ("the practicing religious intellectual") finds its corresponding phrase in the medieval Latin *dicendi faciendique magister* and *loquendi faciendique magister*; see G. Makdisi, *Rise of Humanism*, index, s.v.
- 10 We owe the only comprehensive history of the scholastic method to Martin Grabmann, in his fundamental work, *Die Geschichte der scholastischen Methode*, 2 vols. (Freiburg im Breisgau, 1909–11; photomechanical reprint, Graz, 1957).
- 11 H. Rashdall, *The Universities of Europe in the Middle Ages*, ed. F. M. Powicke and A. B. Emden, 3 vols. (Oxford: Oxford University Press, 1936; New York: Clarendon Press, 1987).
- 12 *Ibid.*, vol. I, chap. 2.
- 13 Cf. A. B. Cobban, *Medieval Universities: Their Development and Organization* (London: Methuen, 1975), p. 37.
- 14 Rashdall, *Universities*, vol. I, p. 20, the additional note by Rashdall's editors.
- 15 Quotation in A. B. Cobban, *The Medieval English Universities: Oxford and Cambridge to c. 1500* (Aldershot: Scholars Press, 1988), p. 1, n. 2. What the university does owe to classical Islam is the scholastic structure of higher learning and the license to teach, the doctorate, to which it led.
- 16 On the charitable trust in Europe, see J. M. Bienvenu, "Foundations

- charitables laïques au XII^e siècle: l'exemple de l'Anjou," in M. Mollet (ed.), *Etudes sur l'histoire de la pauvreté (moyen âge, XVI^e siècle)*, Publications de la Sorbonne, série "Etudes," 12 vols. (Paris, 1974), vol. VIII; and M. N. Boyer, *Medieval French Bridges: A History* (Cambridge, Mass.: Medieval Academy of America, 1976), esp. chap. 3, pp. 31 ff.
- 17 Makdisi, *Rise of Colleges*, p. 229.
 - 18 C. H. Haskins, *The Rise of Universities* (Ithaca: Cornell University Press, 1957; originally published by Henry Holt & Company, 1923), p. 14.
 - 19 Makdisi, *Rise of Colleges*, p. 272 and throughout; Makdisi, *Rise of Humanism*, s.v. "licence to teach," "*licentia docendi*."
 - 20 H. J. Berman, unaware of Islamic legal science and scholasticism in higher learning, believes that legal science was first achieved in Bologna; see his *Law and Revolution: The Formation of the Western Legal Tradition* (Cambridge, Mass.: Harvard University Press, 1983), pp. 161 ff.
 - 21 J. Schacht, *The Origins of Muhammadan Jurisprudence* (Oxford: Clarendon Press, 1950).
 - 22 G. Makdisi, "The Juridical Theology of Shafi'i: Origins and Significance of Usul al-Fiqh," *Studia Islamica*, 59 (1984), pp. 5–47.
 - 23 On the classical age of Christendom, see Dawson, *Historic Reality*, p. 112.
 - 24 Rashdall, *Universities*, vol. I, p. 221, considered Irnerius and his contemporaries as "private and unauthorized teachers" (*ibid.*, p. 143); but Irnerius was, in fact, a professor of law in a school of law founded for him by Countess Matilda, the same as his Islamic counterpart in a *madrasa-college*.
 - 25 *Ibid.*, vol. II, p. 124.
 - 26 *Ibid.*, vol. II, p. 129.
 - 27 *Ibid.*, vol. II, p. 337 and n. 1: the licenses afterwards received an *ex post facto* validation by papal bull.
 - 28 See, *inter alia*, Makdisi, *Rise of Colleges*, p. 106.
 - 29 See Haskins, *Rise of Universities*, p. 14.
 - 30 Rashdall, *Universities*, vol. I, p. 146.
 - 31 *Ibid.*, vol. I, p. 115.
 - 32 *Ibid.* (emphasis added).
 - 33 *Ibid.*, vol. I, p. 116.
 - 34 Berman, *Law and Revolution*, p. 127.
 - 35 C. M. Radding, *The Origins of Medieval Jurisprudence: Pavia and Bologna 850–1150* (New Haven: Yale University Press, 1988), pp. 181 ff.
 - 36 See Leclercq, "Médiévisme et unionisme."
 - 37 Grabmann, *Scholastischen Methode*, vol. I, p. 113; Makdisi, *Rise of Colleges*, p. 247.
 - 38 Makdisi, *Rise of Colleges*, p. 259.

- 39 C. Thurot, *De l'organisation de l'enseignement dans l'Université de Paris au moyen âge* (Paris: Dezobry, E. Magdeleine et cie, 1850), p. 160.
- 40 Dawson, *Historic Reality*, p. 70.
- 41 See Makdisi, *Rise of Colleges*, pp. 230–7 (on p. 232, first line cited of Chief Justice Marshall's opinion, instead of “elementary,” read “eleemosynary”).