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Dr. Stewart's Year Researching with Support from the Center for Humanistic Inquiry



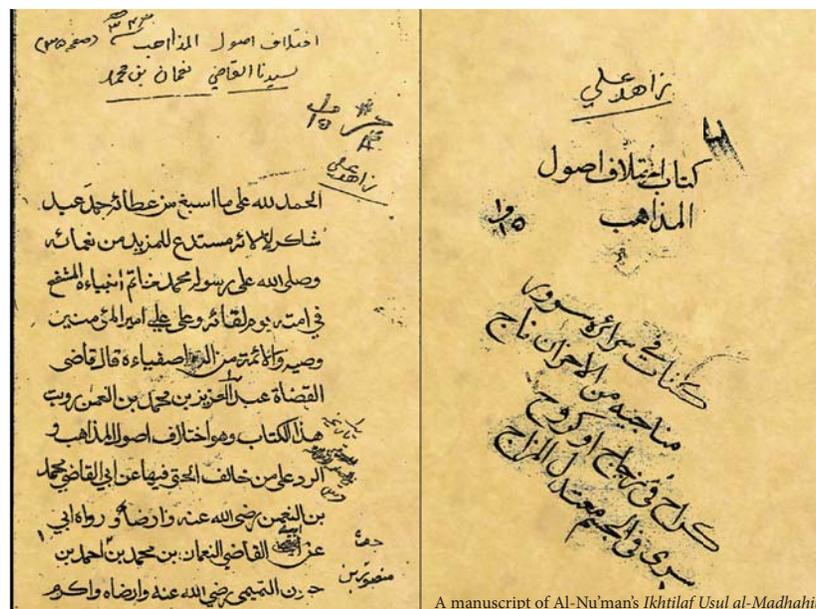
I spent this last academic year at Emory's humanities center, the Fox Center for Humanistic Inquiry, and had the opportunity to work on a number of projects, some old and some new. I was able to complete an Arabic edition and translation, under the English title *Disagreements of the Jurists, of Ikhtilaf Usul al-Madhahib* (literally, The Conflicting Hermeneutic Principles of the Islamic Legal Schools) by the tenth-century Isma'ili author al-Qadi al-Nu'man. The book will appear by the end of the year in the Library of Arabic Literature, a series of editions and translations produced by New York University Press in collaboration with Abu Dhabi's Tamkin Foundation, which is attempting to revolutionize the business of Arabic translation by producing handsome volumes containing reliable editions accompanied by facing-page English translations that are free of jargon, clumsy constructions, and transliterated

Arabic and may be read with profit and enjoyment by an educated, general audience.

The appearance of this new edition and translation is significant for several reasons. Al-Qadi al-Nu'man (d. 363 A.H. / 974 A.D.) is arguably the most important author in the history of Isma'ili Shiite Islam. He single-handedly established the Isma'ili legal system as well as the Isma'ili traditions of hadith and tafsir, and he counts among the most prominent Isma'ili authors on theological matters, including the Imamate, the legitimate leadership of the Muslim community. As the chief judge and ideologue of the Fatimid Empire, he played an instrumental role in bolstering their legitimacy and establishing their institutions. His major work on law, *Da'a'im al-Islam* (The Pillars of Islam), the standard legal text for Isma'ili Muslims from the tenth century until the present, was translated by Asaf Ali Ashgar Fyzee and Ismail Poonawala; the revised version was published in 2000 and 2002. Now, this translation of *Ikhtilaf Usul al-Madhahib* makes the theories of scriptural interpretation on which al-Qadi al-Nu'man based his legal scholarship available to a wider audience. Together, the two works represent a major part not only of the oeuvre of al-Qadi al-Nu'man but also of Fatimid heritage, a legacy that was ravaged by the Ayyubid dynasty and preserved primarily by the Egyptian antiquarian al-Maqrizi, who, though a Sunni, had a curious fascination with the Fatimids,

and by the Ismailis themselves, who preserved Fatimid works in private, often secret libraries.

Ikhtilaf Usul al-Madhahib has been known to scholarship in Islamic studies since the mid-twentieth century. In 1955, Fyzee provided a concise outline of the content of the *Ikhtilaf* in a collected volume on law in the Middle East. In 1969, he expressed the hope someone would undertake the study and publication of al-Qadi al-Nu'man's work *Ikhtilaf Usul al-Madhahib*. In the early 1970s this call was answered, and two editions of the work were published, in 1972 and 1973. The 1972 edition was completed at the Indian Institute of Advanced Study in Simla by Shamooun Tayyib Lokhandwalla, a scholar who had completed a dissertation on the early history of Isma'ili law at Oxford. His edition included an extensive introductory essay discussing the work and its place in the history of Islamic jurisprudence. The 1973 edition was produced by Mustafa Ghalib, an Isma'ili scholar from Syria who has edited many Isma'ili works. The Arabic text for the new edition was therefore established primarily on two manuscripts kept at the Institute for Ismaili Studies. While all the accessible manuscript copies are of late date, it was possible to correct many of the errors and infelicities found in the two editions published by Lokhandwalla and Mustafa Ghalib; the apparatus provides a full list of significant variants from the two manuscripts and from Lokhandwalla's edition.



A manuscript of Al-Nu'man's *Ikhtilaf Usul al-Madhahib*

This is the first translation of the work into any language.

Completed ca. 348 A.H. / 957 A.D., *Ikhtilaf Usul al-Madhahib* is a sustained critique of Sunni legal hermeneutics, essentially a refutation of the Sunni genre of *usul al-fiqh*, legal theory. In it, al-Qadi al-Nu'man presents a Shiite system of legal hermeneutics, stressing the authority of the Imams and arguing that law must be based on three sources: the Qur'an, the Sunnah or the example of the Prophet Muhammad as preserved in hadith reports, and the statements of the Imams. He critiques the main hermeneutic principles of the Sunnis, including *taqlid* (the acceptance of opinions on authority), *ijma'* (consensus), *qiyas* (analogy), *ray* (sound judgment), *ijtihad* (independent interpretation), *istihsan* (juristic preference), *istidlal* (inference),

and *nazar* (speculative reason), arguing that they all involve the subjective judgment of the jurist and are not justified by scriptural texts. The work is particularly interesting for another reason: it preserves a large number of quotations and arguments from early Sunni works of legal theory that are not extant, and so provides evidence for Sunni intellectual history not found elsewhere. The work, I argue, is based to a large extent on *al-Wusul ila Ma'rifat al-Usul* (Access to Knowledge of Legal Theory) by Muhammad ibn Dawud (d. 297 A.H. / 909 A.D.), the son of the founder of the Zahiri school of law, which was extremely influential in the ninth and tenth centuries but subsequently died out. *Ikhtilaf Usul al-Madhahib* is thus the second most important source of Zahiri jurisprudence after the works of the famous Ibn Hazm.

Other lost sources quoted in the work include Ibn al-Ikshid al-Baghdadi's *Kitab al-Ijma'* (The Book of Consensus) and other Mu'tazili works that remain to be identified.

I also worked on a monograph discussing the role of rhyme and rhythm in the Qur'an. One piece of this project which I completed is the article "Divine Epithets and the Dibacchius: Clausulae in the Qur'an," which appeared in *al-Wusul ila Ma'rifat al-Usul* (Access to Knowledge of Qur'anic Studies 15.2 (2013): 22-64. Inspired by Latin rhetoricians such as Cicero and Quintilian, I sought to detect passages in the penultimate and ultimate feet of Qur'anic verses formed a clear rhythmic pattern in combination. This method had not been explored in the history of Arabic rhetoric, which focused on the last metrical foot of Qur'anic verses.