Mawil Izzi Dien, author of a number of books and articles on Islamic law, wishes to examine the historical foundations and current practices of Islamic law from both a Western and an Islamic perspective, combining what he finds best from both approaches. He relies on authors such as Joseph Schacht and Wael Hallaq for his Western perspective. For the Islamic perspective, he relies on Arabic secondary sources that are well regarded in the Islamic world and used in the curricula of many modern Islamic universities. The book under review focuses almost exclusively on Sunni law, and consists of five parts comprising a total of eleven chapters.

Part one treats the historical background of Islamic law. Here the author argues that the Qur'an and the normative practice of Muhammad (d. 632 c.e.), his Sunna, have always been understood by Muslims to be important sources from which legal questions could be answered. He further maintains that *ijtihad*, which he defines as the “exercising of individual opinion,” was encouraged by Muhammad with respect to his companions and that public interest (*maslaha*) as a consideration in law has been present since the time of the earliest caliphs such as Abu Bakr (d. 634). The author then traces the development of Islamic law through the Umayyad period (661-717) until the formation of the four Sunni schools of law.

Part two of the book presents the divine and human sources of Islamic law. The author begins by examining the divine sources of Islamic law—the Qur’an, Sunna, and *ijma*. The most important source of Islamic law is the Qur’an, while the second in importance is the Sunna. Izzi Dien illustrates the interplay between these sources in legal interpretation through numerous examples. (38-40)

The third source, *ijma*, is defined by Izzi Dien as “a consensus of academic opinion on any legal issue that arose subsequent to the death of Muhammad.” (161) Particularly interesting is his theory that the concept of *ijma* as used in legal questions has its roots in a political question—that of who was to succeed Muhammad after his death. (45)

Next he tackles what he calls the human sources of Islamic law. First, he discusses the notion of *qiyas*, legal analogy, in which a ruling
from a known case is transferred to a second case for which the ruling is unknown. Here he illustrates how a rigid application of *qiyas* may lead to rulings that are unduly harsh. A corrective to this practice is the second source of law he introduces—*istihsan*, or juristic preference. In cases where *istihsan* is employed, the jurist considers issues of public interest, necessity, and the custom of a people in setting aside the ruling dictated by analogy. He closes this section by examining the notion of *sadd al-dhara’i*, which is forbidding an act out of fear that it may lead to a prohibited act.

In part three of his work, the author treats other human sources of Islamic law. He begins by analyzing the concept of *maslaha* (public interest) and how much weight it should be given in Islamic law. He focuses on the debate between “traditional” scholars, who believe *maslaha* must be strictly regulated as it may be a cover for the entrance of individual interests into the law, and “reformist” scholars, who argue that it must be given greater consideration in legal matters than it has previously received. (69-71)

He next engages the notion of the objectives or goals (*maqasid*) of Islamic law and how much weight these objectives should have in the process of creating law. Most interesting in this section is his close analysis of the thought of the Tunisian jurist Tahir Ibn Ashur (d. 1973) who sought to base Islamic law on these objectives and not the traditionally accepted jurisprudence which relegated considerations of the *maqasid* to a minor role. (73-79)

Lastly, Izzi Dien introduces the idea of necessity (*darura*) which is invoked to allow a normally prohibited act. He highlights the contours of the debate among pre-modern jurists regarding necessity. Noteworthy is the author’s description of how modern-day jurists seek to expand the application of this concept to deal with the exigencies faced by Muslims who live in countries in which they are a minority. (85-91)

Part four of the work explains the theory that undergirds the jurists’ understanding of the law. Here the author familiarizes the reader with *usul al-fiqh*, which he defines as the “principles and methodologies upon which injunctions can be deduced from the legal sources.” (95) Next he discusses legal maxims in Islamic law. The author holds that in cases where jurists are unable to come to a ruling based on the previous sources he has covered, recourse is had to the these maxims as they encapsulate the “spirit of Islamic law.” He presents seventeen maxims, illustrating their application through examples. (115-120)
In the fifth and final part of his book, Izzi Dien concentrates on Islam in the modern day. Here he briefly examines some of the organizations and individuals that are looked to by Sunni Muslims for answers to legal questions. His goal is to identify the characteristic features that underlie the legal thought of these authorities. Overall, the author’s outlook for Islamic law is bleak. He argues that there is no longer a central religious authority in Sunni Islam (139), and this lack of authority has led to the creation of a “mutant organic law” in which individuals issue *fatwas* (legal opinions) on every matter as they wish. He states that Usama bin Laden is a representative of this type of law and that force cannot stop it. Force only serves to speed its spread. (156-158)

As a whole, one cannot recommend this book to the beginning or intermediate student of Islamic law. This work appears to be written as a general resource for the academic community as the author states, “Because the work is intended as an academic source, the use of Arabic terms and jargon has been minimised.” (x) However, the work assumes a high degree of familiarity with Islamic history, law, legal theory, and the Arabic terminology employed in these fields. Furthermore, in numerous places, the work is unclear and unfocused. For example, in his discussions in chapter five, the author contrasts the “reformist’s” employment of *maslaha* with the “traditional” understanding of Islamic law that uses “the strict rules of *usul al-fiqh*.” (69) Note that Izzi Dien has yet to define what “*usul al-fiqh*” means. The term is not defined in his glossary (one must look under the entry “furu’ al-fiqh,” that is, branches of the law, to find a definition), and his index is of little help. The index lists the first use of the term “*usul al-fiqh*” on page forty-seven. When the reader turns there, there is only a reference to the word “*usul*” with no further definition. The author only comes to his treatment of *usul al-fiqh* in chapter seven of his book. Even here, it would not be possible for a beginning reader to discern why reformist scholars would be opposed to the “strict rules of *usul al-fiqh*” as Izzi Dien never addresses this point in this chapter. Only a reader with a high degree of familiarity with Islamic law could follow his discussion in this area and others like it. For the beginning and intermediate reader, one must recommend Mohammad Kamali’s *The Principles of Islamic Jurisprudence*¹ as the best introductory work in English on *usul al-fiqh* because of its clarity and range.

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Furthermore, some of the author’s translations of Arabic terms are unnecessarily confusing. For example, to translate “\textit{wajib}” as “dutiful” (96) is unduly opaque. A “\textit{wajib}” act is simply an obligatory act. Other scholars have devised translations that are more clear and concise than those of Izzi Dien; one wishes he had consulted their works.

The work at times omits valuable background information. In the discussion on legal maxims in chapter eight, the reviewer had hoped for a more lucid presentation of the subject, or even one that had at least referenced Wolfhart Heinrichs’s introductory article \textit{Qawa’id as a Genre of Legal Literature}.\footnote{Wolfhart Heinrichs, \textit{Qawa’id as a Genre of Legal Literature}, in \textit{Studies in Islamic Legal Theory} 365 (Bernard Weiss ed., \textit{Studies in Islamic Law and Society} vol. 15, Brill 2002).} A puzzling omission is that the author mentions in passing the five legal maxims that all Sunni legal schools eventually come to agree upon (\textit{al-qawa’id al-khamis}), but he never draws the reader’s attention to the fact that they are agreed upon, nor does he explain the significance of these five maxims. This is essential information for the beginning and intermediate student of Islamic law.

One also hesitates to recommend this book to the advanced student of Islamic law as most sections of this work provide only a cursory analysis of the subject under consideration. However, certain parts of the book—the areas of public interest, necessity, and legal maxims—may be of use to the advanced reader. Likewise, Izzi Dien’s ability to weigh the strengths and weaknesses of arguments, in particular those of Ibn Ashur and al-Tufi (d. 1316) (86-88), are insightful and will be beneficial to those interested in legal theory, especially those who do not read Arabic. His references to the secondary literature available in Arabic will be of benefit to those readers who are not fluent in Arabic or are unaware of the debates taking place among modern-day Muslim jurists.

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