

STUDY PLAN

Ph. D In (Islamic Jurisprudence and its Foundations)

Plan Number			2005
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A. General Rules And Conditions:

1. This plan conforms to the regulations of the general frame of the program of graduate studies.
2. Areas of specialty for admission to the Ph. D: Holders of the Master degree in:
 - a. Jurisprudence and its Foundations.
 - b. Islamic Jurisdiction.

B. Special Conditions: None.

C. The Study Plan: Studying (54) Credit Hours as Follows:

1. Obligatory Courses: (21 Cr. H.)

Course No.	Course Title	Cr. H.	Pre-req.
0402910	Theory of Contingencies in Islamic Jurisprudence	3	-
0402911	Theory of Abusing the Use of Right	3	-
0402919	Contradiction and Prevalence	3	-
0402930	Corporation in Islamic Jurisprudence	3	-
0402940	Fundamental Manners in Opinion Reasoning	3	-
0402950	Legislative Policy and Its Application	3	-
0402973	Contemporary Styles of Islamic Investment	3	-

2. Elective Courses: Studying (15 Cr. H.) From the Following:

0402912	Guarantee Theory	3	-
0402920	Reasoning and Imitation	3	-
0402921	Fundamental Differences	3	-
0402951	Treaties in Islamic Jurisprudence	3	-
0402952	Financial System in Islam	3	-
0402954	Theory of the Lawsuit	3	-
0402968	Arbitration in Islam	3	-
0402969	Juristic Differences	3	-
0402970	General Theory of Punishment in Islamic Jurisprudence	3	-
0402972	Contemporary Reasoning Issues in Alms	3	-

3. To pass in the exam of cognitive qualification (0402998).
4. Thesis: (18 Credit Hours) (0402999)

Ph. D In (Islamic Jurisprudence and its Foundations)

0402910 Theory of Contingencies in Islamic Jurisprudence

(3 Cr. H.)

This course is devoted to explain the contents and nature of *Nazariyyat al-Zuruf al-Tari'ah* i.e. the Theory of Contingencies in Islamic and statutes legal systems. It studies the general principles on which the theory relies, the general and specific proofs for its legitimacy. It also deals with some of the major principles relating to it, such as the theory of excuse in the leasing and hiring contract, and the theory of *al-Jawa'ih* i.e. a disaster that damages or loses the crops. Further, this course sheds light on the applications of this theory which concern the private and public rights. Moreover, it provides a comparative study to the latter theory between Islamic Jurisprudence and the statute legal systems.

0402911 The Theory of Abusing the Use of the Right (3 Cr. H.)

This course studies the following issues. The definition of the right and its types. The concept of *al-Ta'assuf*, the abusing, its legal nature, the proofs of the legitimacy of this theory. A study to several examples from the practices of the companions of the Prophet Muhammad, peace be upon him, and the jurists which prove its authenticity, such as *al-Dhara'i'*, *al-Istihsan*, *al-Ba'ith*, the motive, and *Qa'idat al-Tahayyul*. The standards of applying this theory and the scope of applying it.

0402912 Theory of Guarantee (3 Cr. H.)

This course is devoted to study the general rules on which *Nazariyyat al-Dhaman* i.e. the theory of compensation, depends including the general and specific pieces of evidence that prove its legitimacy. Further, it sheds light on the applications of this theory in Islamic Jurisprudence and it provides a comparative study to it in Islamic Jurisprudence and legal statutes.

0402919 Contradiction and Prevalence (3 Cr. H.)

This course highlights the concept of *al-Ta'arud*, the Contradiction, its scope, its conditions and its legitimacy according to the Hanafi school and the opinion of the other schools of Islamic Jurisprudence. Besides, it studies *al-Tarjih*, the Prevalence, its conditions, the ways of prevailing the contradicted indications of the expressions, and the methods of removing the contradiction between the statements and texts.

0402920 Reasoning and Imitation (3 Cr. H.)

This course aims to study the subjects of Reasoning, Imitation, and *al-Istifta'* i.e. asking for a legal opinion. These issues belong to the Science of the Principles of Islamic Jurisprudence. In addition to this, it points towards assessing the importance of reasoning in the contemporary time and the role of the Islamic legal councils in performing it. Thus, the following subjects are taught in this course in order to achieve these targets. The definition of reasoning, the personal reasoning, the analogy, the relationship between the reasoning and the

Science of the Principles of Islamic Jurisprudence. *Al-Mujtahid*, the jurist, his status, his conditions and the levels of *al-Mujtahidun*. The scope of reasoning and its rulings. Reasoning in the contemporary time, its importance, our need to it, the joint reasoning which is carried out by a group of jurists, the Islamic legal conferences and councils.

0402921 Fundamental Differences (3 Cr. H.)

this module aims to help the student knowing sorts of agreements and disagreements in the rules and concepts of principles of Jurisprudence, which will help to develop and build the students academic capacity to help him learning scholars' methodology and help him in deducing the rulings and distinguishing between the encounters. It helps him also to distinguish between the similar concepts and principles of jurisprudence and clarifying the differences between them.

0402930 Corporation in Islamic Jurisprudence (3 Cr. H.)

This course provides firstly an introduction about the meaning of corporation, the proofs of its legitimacy, its 'fundamental constituents', its conditions in general, its legal nature, and its cancellation. It highlights also the most important kinds of corporations in Islamic Jurisprudence, such as *al-'Anan*, *al-'A'mal*, *al-'Abdan*, *al-Mufawadah*, *al-Mudarabah*, *al-Wujuh*, and *al-Musahimah*. The accordance of companies with the legal rulings. The contemporary applications of *al-Mudarabah* corporation in the Islamic banks.

0402940 Fundamental Methods of Reasoning (3 Cr. H.)

This course studies the following principles of Islamic Jurisprudence. *Al-Istihsan* i.e. adopting a ruling which is different than the similar rulings in the subject to which the issue in question belongs and considering this choice as being better than the other possibilities. *Sad al-Dhara'i'*, preventing the means of evil. *Al-'Urf*, custom. *Qawl al-Sahabi*, the opinion of the companion. *Al-Istishab*, presumption of continuity. *Al-Masalih al-Mursalah*, consideration of public interest. Besides, this course clarifies the impact of these principles on tackling the new cases.

0402950 Legislative Policy and its Applications (3 Cr. H.)

This course covers the definition of Legislative Policy, its legitimacy, its importance, its objectives, its standards, and its relationship with the sources of Islamic legislation. In addition, it highlights the fields of legislative policy, such as creed, worshipping, *al-Qada'* i.e. the juridical authority, *al-Hisbah* i.e. a kind of Islamic executive juridical authorities, penalty, economy, and administration. Furthermore, this course provides an applicable study to this subject in the fields of personal statuses, transactions, and political system.

0402951 Treaties in Islamic Jurisprudence (3 Cr. H.)

This course gives a general idea about treatises in Islamic Jurisprudence. Besides, it concentrates exclusively on studying and assessing in depth one issue or more of the subjects relating to treatises

in Islamic Jurisprudence. For example, the rights of the individuals in the states, which includes the concept of *Dhimmi*s and foreigner person and their rights in Islamic Jurisprudence. The contents of the territory of the state and the issues that are related to it, such as the coastal waters, the borders of the territorial sea, the airspace of the territory, and the equality between the states. Another example is *al-Jihad*, its legitimacy, rulings, comparing between the principles of the Islamic war and international war, and the difference between *al-Jihad*, the invasion and occupation. Further examples are the reconciliation, truce, conventions and their rulings in Islamic Jurisprudence. However, the chosen subject(s) of the former should be studied in a comparative way in Islamic Jurisprudence, and western and international legal systems.

- 0402952 Financial System in Islam (3 Cr. H.)**
Firstly, this course gives a general idea about the following subjects. The meaning of *al-Mal*, i.e. property, in the Islamic conception, and the legitimate and illegitimate ways for gaining property in Islamic Jurisprudence. This is in addition to, *Bayt al-Mal* i.e. the state treasury of the Islamic state. Secondly, it assesses in depth two or more of the following issues. *Al-'Infaq* i.e. spending, donation, taxes and duties, *al-'Ushur*, a one tenth tax which is due on the yield land, *al-Kharaj*, a type of tax which is due on income of some kinds of land, and the rulings which concern dealing with lands and loans.
- 0402954 Theory of Lawsuit (3 Cr. H.)**
This course covers the study of the definition of lawsuit, its legitimacy, importance, elements, and conditions. This is in addition to an applying study to the lawsuit formulas and to the ways of performing its procedures.
- 0402968 Arbitration In Islamic Law (3 Cr. H.)**
This module deals with the definition of Arbitration, the difference between it and adjudication and reconciliation, its legitimacy, its legal position and its principles which include: arbitration contract formula, parties, their capacity, contract conditions, the implications of the decline of some conditions, subjects of the arbitration; arbitration in financial deals, arbitration in civil issues, arbitration in criminal and penal cases, the arbitrator, his capacity and qualities, his authority and limitations and the expiry of his governance, the proof value of the verdict towards the dispute parties and in the eyes of the judge and the authority of the arbitrator in implementing the verdict.
- 0402969 Jurisprudential Differences (3 Cr. H.)**
This module deals with the Science of Differences in Islamic Jurisprudence, how it differ from the Science of Differences in the Principles of Islamic Jurisprudence, scholars' methods in this science, famous books of the topic, then implementation study of some issues from the Purification and Prayers Books, and explaining the impact of this science on the jurisprudential capacity of the scholar.
- 0402970 General Theory of Islamic Penal Law (3 Cr. H.).**

This module deals with following concepts: Crime; its definition, types, and its pillar, materially and from Islamic perspective, punishment, its definition, reasons which make it lawful and those which prevent and conceal it, its categories: unalterable punishment (hudud), Equality Law or retribution (Qisas), discretionary punishment (ta'zeer) and expiations (kaffarat), numerousness and interrelation of punishments, circumstances which decrees punishment and those which increase it, execution of punishment and reasons of its omission.

0402972 Contemporary Reasoning Issues of Alms (3 Cr. H.)

This module consists of two main sections categories; the general one which studies the social and economic impact of Alms and its role in alleviating poverty. In addition to its impact on development and economic activities, enforcement of Alms rules, administering alms money And alms institution.

The specific section that helps the student to study some of the contemporary issues relating Alms. Following are some important issues:

- 1- Alms of wages, salaries, promotions and other types of income.
- 2- Investment of Alms Money.
- 3- The relationship between Alms and state budget and taxes.
- 4- Alms of unlawful money.
- 5- The appearance and hidden included money.
- 6- Alms of public money.
- 7- Alms of corporations and shares and its calculation.
- 8- Alms of investment debts and loans.
- 9- Being growing money as a condition for obliging Alms.
- 10- The expender ” in Allah’ cause ” and what does it include.
- 11- The expender “ who been recently reconciled”.

0402973 Contemporary Styles of Islamic Investment (3 Cr. H.)

This module deals with Insurance, its forms and implications, electronic business lease contracts, guarantee letters, and banking reliance system.