

Does 'Changeless' Shari'a Change?

Is Islamic Law changing or changeless? Most Muslims believe it is both, for whilst the divine, unchanging, ideal Law does not change, the law as it is actually practised in Muslim communities is more mutable. With regard to the latter, it is therefore legitimate to ask how it has changed over time. This unique research network was interested in this question and, above all, in how the traditional schools or *madhhabs* which mediate the law have changed in the modern period. They found that there has been both more *and* less change than previously imagined.

The starting-point of the network was to bring together scholars and practitioners of Shari'a – two groups who might not otherwise interact. The conversations took place between 2007 and 2009, under the leadership of Professor Robert Gleave. Each of the four network sessions examined change and continuity in a different tradition of legal interpretation (*madhhab*).

In the premodern period, most legal activity in the Muslim world – be it teaching, writing, judging or legislating – took place within a particular *madhhab*. These often took very different positions on fundamental legal questions due to differences in interpretation of the sources and in the views of the *madhhabs'* founders. There is a widespread perception that the modern period was corrosive of the influence of the *madhhabs*, and that they lost their authority as Islamic law was modernised under the influence of Western models. Yet the network confirmed that in some parts of the world, both in Muslim majority and minority contexts, the *madhhab* has in fact retained its importance, even when it has changed in order to respond to challenges posed by modernising societies. Despite the perception that the *madhhab* lost its significance, laws which serve as substitutes for *madhhab* rulings can still almost always be traced back to opinions within one of the schools.

How the traditional structures of the Hanafi and Shafii schools had developed over time, and whether they could survive the pressures on religion and law in the contemporary period was also discussed. With their history of both competition and interaction, the traditions have dynamic structures which allow them to adapt, survive and even thrive. However, they demand intellectual training, and the breakdown of traditional authority structures makes this more difficult. The almost universal respect they once enjoyed has diminished as a result of many factors, and their main rivals remain secular lawyers. The network noted that current research has focused far more on the Maliki than Hanbali school, which may indicate the growing influence of Salafism and Wahhabism on the traditional territory of the Hanbali school. Meetings also covered developments in Shi'ite jurisprudence and on Islamic Law in minority contexts.

The network has led to several new initiatives, including the composition of an Islamic inheritance guide for practitioners, and requests for academic members to give advice on various commercial law disputes and to serve as expert witnesses in some legal cases. It has also spurred the establishment of HEFCE's special interest group on Islamic Law (see below), a connection with the International Society for Islamic Legal Studies, and a collaboration with SOAS.

Find out more...

- Visit the project web page: <http://people.exeter.ac.uk/rmg205/Islamiclawprojectsummary.htm>
- Robert Gleave is now president of the International Society for Islamic Legal Studies, visit their website: <http://www.isils.net/>

You might also be interested in...

- The Religion and Society funded project about religious courts in Britain, including a study of a Muslim court, led by Gillian Douglas at Cardiff: <http://www.law.cf.ac.uk/clr/research/cohesion.html>
- Sheila Canby's Programme funded research at the British Museum on Shah 'Abbas, which Robert Gleave was also involved in: http://www.britishmuseum.org/the_museum/museum_in_london/shah_abbas.aspx
- Sophie Gilliat-Ray's Religion and Society project investigating Muslim chaplaincy in the UK: <http://www.cardiff.ac.uk/share/research/centres/csi/research/muslimchaplaincyproject/index.html>
- The Institute of Arabic and Islamic Studies at Exeter University where Robert is based: <http://socialsciences.exeter.ac.uk/iaais/>

Project Details

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Team

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