

The ERC project “Islamic Law Materialized” (ILM)

Call for papers

**Rethinking classical Islamic law
Can *fiqh* be applied law?**

Conference housed by the Centre Jacques Berque (CJB), Rabat/Morocco
13-15 November 2013

The theoretical character of the jurists’ law in Islam seemed to have been firmly established by Joseph Schacht, Noel Coulson and other scholars in the middle of the last century. In the past 30 years, new approaches to Islamic law have challenged the idea of an unchanging juridico-religious deontology. By adding a practical and a chronological dimension to the jurists’ law, these studies moved boundaries, but did not destroy the underlying vision of a theory-practice dichotomy that sets Islamic law apart from a “normal” legal system. Today, this supposed sacrality of Islamic law becomes again an issue of major political importance.

Over the last four years, the ERC financed project ILM (Islamic Law Materialized: Arabic Legal Documents (8th to 15th centuries)) has constituted a corpus of 2000 legal documents with more than 50 000 textual entities. It analyses the intimate relationship between these relics of pre-modern legal practice and the juridical scholarship (*fiqh*) of their time. This analysis, to be presented in the conference, provides evidence that the “theoretical concepts” of *fiqh* were essential to, and provided juridical coherence for, notarial and judicial practices as reflected in legal documents.

From such a perspective, the truism of a “theory-practice antagonism” between classical legal scholarship and applied Law may need reconsideration. We therefore call for papers that consider pre-modern Islamic law (*fiqh*) from the angle of a system of law (J. Ratz). Such an approach has to deal with the various phenomena that affected the functioning of legal scholarship within applied law, such as contradicting substantive provisions in transmitted legal rules, reports on judicial scandals, etc.

Proposals in the following areas are particularly encouraged:

- the application of juridical norms in legal practice (documents, court cases and *fatāwā*).
- *fiqh*-rules as a system of legal norms: interlocking norms in juridical casuistry; valid and practiced norms; *fiqh* as an open system of legal norms, etc.
- the role of primary agents (jurists, judges, etc.) for creating, transmitting and applying Islamic law
- modes of norm-transmission: teaching and types of legal literature (manuals, encyclopedic works etc.)
- canonical literature and changing canons
- the argumentative evolution of juridical concepts in *fiqh*
- judicial and juridical cases with reference to *fiqh*
- notarial practice (legal documents and *šurūt*-literature)
- customary and *fiqh*-norms (ontological issues)

Proposals may cover any time period before legal reform of the 19th century. Papers on topics earlier than the 16th-century are particularly encouraged. Papers are accepted in English, French and Arabic. Accommodation and travel expenses will be paid for all selected participants. We will publish the proceedings as a special journal issue.

Abstracts for paper proposals (normally entailing a presentation of 25-30 minutes with questions) should be a maximum of 400 words in length. They should be sent to the principal investigator of ILM, Christian Müller (c.mueller[at]irht.cnrs.fr) no later than Wednesday 1st May 2013. Paper drafts will be due by 31st October.