

The Muezzin's Call and the Dow Jones Bell: On the Necessity of Realism in the Study of Islamic Law

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Haider Ala Hamoudi

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Abstract

The central flaw in the current approach to *shari'a* in the American legal academy is the reliance on the false assumption that contemporary Islamic rules are derived from classical doctrine. This has led both admirers and detractors of the manner in which *shari'a* is studied to focus their energies on obsolete medieval rules that bear no relationship to the manner in which modern Muslims approach *shari'a*. The reality is that given the structural pluralism of the rules of the classical era, there is no sensible way that modern rules could be derived from classical doctrine, either in letter or in spirit, and all efforts to do so have largely failed. As with all historical approaches to the law, the past becomes no more than an invention of the present, a means to validate an approach rather than any true reflection of the practices and norms of a previous era. Thus, modern Islamic rules are not a resurrection of classical era rules, but rather are largely the product of mediation among competing influences in Muslim society. Within and even beyond Islamic finance, the two major influences are, on the one hand, resistance, clothed in Islamic rhetoric, against the dominant global economic and political order in order to create a separate Muslim sphere within which the Muslim polity may operate, and on the other, the need to engage the broader global order, commercially and politically, in order to restore some level of political and economic power to the Muslim world. A proper study of influences of this sort that have led large numbers of Muslims to adopt particular *shari'a* positions on economics, finance, war, and numerous other realms is absolutely vital in the post 9/11 era in order to understand and engage substantial, important segments of the Muslim community in their call for a reinvigoration of the *shari'a*.

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