SHARI'A WAS NEVER GOD’S LAW : A GENEALOGY OF THE MODERN UNDERSTANDING OF ISLAMIC LAW IN SYRIA AND TURKEY

JOCELYNE CESARI, UNIVERSITY OF BIRMINGHAM AND GEORGETOWN UNIVERSITY

The building of nation-state after the collapse of the Ottoman Empire is key to understand the existing features of Islamic Law across Muslim-majority countries. Any attempt to look back at Shari’a in Muslim Empires to explain its current political underpinnings is based on two assumptions: that Sharia’s was and is God’s law and that its meaning has remained intact across centuries. This paper challenges both assumptions by showing that decades if not centuries of institutional and ideational changes associated with the nation as the modern political community, are crucial to the understanding of the modern status of Islamic Law. It will first analyze how the Islamic tradition has seen not only its societal influence reordered by the nation-state, but also its doctrinal content redefined to allow state sovereignty over mundane matters. Secondly, it will describe how the grafting of Islam onto state institutions and national identities led to the incorporation of some Islamic prescriptions in the secular legal systems through two case studies: Syria and Turkey. This analysis will close with the assessment that the dominant perception of Sharia as God’s law does not reflect its traditional understanding but is in fact related to the rise of Shari’a as state law.