

BOOK REVIEW

Bülent Ucar, *Recht als Mittel zur Reform von Religion und Gesellschaft. Die türkische Debatte um die Scharia und die Rechtsschulen im 20. Jahrhundert (Law as a Means to the Reform of Religion and Society. The Turkish Debate over the Sharia and the Schools of Law in the 20th Century)*. Würzburg: Ergon Verlag. 2005. 406 pp. € 48.00

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Sharia is a well-known term. Since Islam has become a global issue it has been used exuberantly in social research related to Muslims in general as well as to migration issues. However, looking at the state of art literature, one cannot say that this concept has always been used adequately. Many studies dealing with Islamic conduct of life, individualism and subjectivity are insufficient, because they fail to include the *Sharia* effectively in their framework. This is despite the fact that *Sharia* has occupied the main arena of political controversy among the Muslim population ever since the first steps towards modernization. Its relevance is not limited to the constitution of the political organisation, as is often assumed. As a specific type of ethical law, it connects the realm of legal regulation with that of personal conduct. This is the reason why the construction of modern political institutions in Turkey as well as the modern forms of conduct of life have necessarily come into conflict with the claims of the *Sharia*. Conflict with the power of traditional jurists (*Ulema*), still rooted in conservative milieus, accompanies the history of the Turkish Republic from its beginning. Bülent Ucar reconstructs this highly controversial Turkish debate on the *Sharia* as a means of approaching the issue of shaping a society by the means of law. The discussion presented here revolves around the question how the tradition of *ijtihad* (interpretation of the legal sources) can be revived, and whether a commitment to *madhhabs* (the four Sunni Islamic schools of jurisprudence) must or should be abandoned under new social conditions. According the author (who deliberately takes sides in the controversy) an effective modernization of Muslim countries could be achieved in a way different from that of the radical modernization so far engaged in.

Ucar agrees with a diagnosis widespread among some strongly conservative Islamist circles that the main problem of Turkish modernity derives from the practice of introducing European laws instead of developing the already existing Islamic law tradition. His criticism (on lines which are popular in the current global cross-cultural discourse popular because of the idea of ‘alternative modernities’ and the claim to recognition of cultural difference) attacks first of all the ‘Kemalist Project’ which aimed at the transformation of religion and society by the law. Although Ucar presents several regulations as interfering with the classical order of religion (or in his terms as being attacks on religion *per se*), he is ready reasonably to concede that the Kemalist elite never attacked openly and directly the religion of individuals (116). This seeming paradox has still not been adequately discussed; neither is it by this author. On the other hand he provides the reader with rich material from the discourse on the issue of ‘the closing of the door of *ijtihad*’. Those who refuse to open the door to contemporary interpretations fear a total watering-down of religion, a reform perceived by them as negative. Their opponents consider this closure as the main obstacle to a creative adaptation of Islam to modern conditions. The author adds to such objections a binding commitment to the *madhhabs*.

One may suppose that these discussions about *ijtihad* and *madhhabs*, more than one hundred years old but still alive, have now has been transposed to Europe through migration, especially to Germany. Ucar pins his hope for a better integration of (Turkish) Muslim migrants in Europe on the debate on the reform of religious law and the easing of the binding effect of *madhhab* as a precondition of the *Sharia*. The author is undoubtedly courageous to underpin his claim to renew society and religion by a reform of religion with a proposal that has usually been made by secular Turks. Muslim groups (or ‘practising Muslims’ as Ucar calls them) mostly suffer from a double orientation (218) because they still hang on to old fashioned ideas which they do not and cannot communicate openly to society. If their ideas were to be put into practice, the result would be a total overthrow of the whole society, and the emergence of a Taliban society (316 ff.).

The study provides a compact synopsis of this highly controversial issue. Beside accounts of the leading personalities and competing positions from the discourse on religion and law, the reader receives an impression of the practical meaning of *Sharia* on the basis of *Fatwas* (legal pronouncements) from the Turkish Office of Religious Affairs in Ankara. The moral component underlying *Sharia* obviously still determines the personal behaviour of many Muslims, even though the *Sharia* as the law of the state was abolished more than 80 years ago. Both the fears of

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laicists and the hopes of Islamists regarding the *Sharia* concern the question, how should individuals conduct their lives, and what kinds of freedom and restraints are connected with personal behaviour. Last but not least, *Sharia* constitutes the power of religious specialists, or in general terms, the priests, who strive to control the conduct of people's lives. Of course, the laicist republic does this also (as in the case of the headscarf). The question however is whether these two modes can be considered as being on the same level. Beyond all legal refinements, the following questions remain: In which way does one want to be governed in one's personal conduct, and by whom? And, more fundamentally: Do we want be governed at all in our personal conduct? What regimes of governance of conduct are here at work? In what sense are the 'practising Muslims' in a Muslim country with more than 70,000 Mosques and obligatory religious education (even for Non-Sunni Muslims) "hindered from performing an authentic Islamic unfolding" (35)? Or is this accusation anything more than the outpouring of resentment by those who have lost the power to control the social environment? Such decisive questions have to be addressed in a study that approaches the issue of *Sharia*, that is, the issue of the regulation of personal conduct in a modern society. This book makes a helpful start with this discussion. It however ends exactly at that point where the question put in its title, 'reform of society and religion by means of law', actually begins to reveal its explosive nature.