Connectivity, Mobility and Integrity in Contemporary Islamic Legal Scholarship.

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Introduction

This project seeks to pioneer new ways of conceiving and describing the production and consumption of contemporary Islamic legal scholarship (*fiqh*). Multi-sited fieldwork is proposed to investigate institutions such as *shari'a* courts, *fatwa*-issuing bodies and the offices of individual religious personalities, Sunni and Shi'i, in the Gulf Arab States and Britain, to set alongside previous fieldwork in Lebanon, not simply as a comparison of discrete units of analysis, but in an exploration of connections and disconnections.

'Islamic law'

'Islamic law' must be situated analytically in local contexts, intellectual, sociological and political. But '*shari'a* discourse' (Messick 1993) also transcends state boundaries, and its scholars and consumers are equally mobile. Claims to distinctive, frequently localised jurisprudences on the part of individual authorities are thus accompanied by larger, universalist ambitions, broadcast via the internet and other mass media, and relayed and enacted through outposts established across nation-state boundaries by mobile disciples and representatives. Non-specialist Muslims with transnational lives split between the cosmopolitan centres of the Middle East and Europe are adept at tailoring ethical and legal strategies to local requirements while remaining committed to coherent moral projects. Different states constitute and police the legal and moral in different ways; contestation of such hegemonies has become deterritorialised through use of the new media (Eickelman and Anderson 1999; Fandy 1997).

Aims

In describing such patterns of connectivity, mobility and integrity across varying legal regimes, this project has two core objectives:

1) To make a substantial contribution to the understanding of the contemporary Arab Islamic ecumene and in particular the dynamics of contemporary Islamic jurisprudential thought and practice, to be published as a monograph.

2) To establish the foundations for a future, major research programme engaging other scholars in a collaborative research network tracing such connections globally.

Research trajectory

I build on nine years textual research and two prior intensive field studies of Islamic legal practice in Lebanon (2003-4 and 2007-8).

Islamic medical ethics

The first study focused on medical ethics, in particular debates around new reproductive technologies such as IVF, working with religious, legal and medical specialists. This has been published as a monograph (Clarke 2009, recently [2011] reprinted as a paperback), with further publications forthcoming in this area (Clarke n.d.a; Clarke and Inhorn 2011).
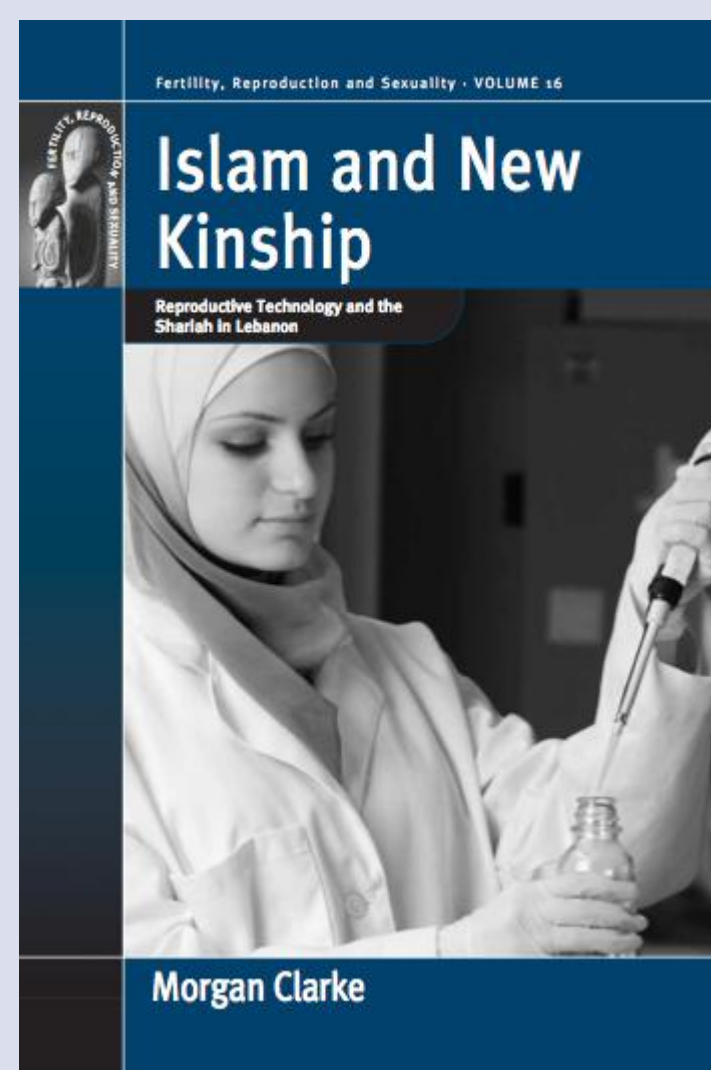

Figure 1 Cover of 'Islam and New Kinship', the author's monograph devoted to Islamic legal debates over assisted reproduction in Lebanon (Berghahn Books, 2011[2009]).

Shari'a courts

My second research project in Lebanon, which I have been writing up and publishing while at Manchester, took a wider view of *shari'a* discourse. I made an intensive study of Lebanon's state-sponsored *shari'a* (i.e. family law) courts, Sunni and Shi'i, working with both Islamic judges (*qadis*) and lawyers trained in the civil legal tradition (see Clarke 2012).

Figure 2 A judge and his recorder in a Lebanese (Sunni) shari'a court.

Shari'a court cases involving Lebanon's highly mobile citizenry and diaspora frequently involve multiple passports and several legal jurisdictions, civil and Islamic jurisprudential: for instance, Saudi Arabia's Islamic courts apply Hanbali Sunni law to Lebanese expatriates; but Lebanon's Sunni courts govern Saudi spouses according to Hanafi precepts, which are in turn subject to internal critique as inadequate to Lebanon's contemporary realities. Lebanese Shi'is in some Gulf states, while consulting their own authorities, may be forced to have recourse to state courts whose rulings may not be honoured in Lebanon's Shi'i courts. Research that transcends nation-state boundaries, as proposed here, is required to capture this regional mobility and interplay between state-sanctioned and extra-governmental authority, 'local' and 'foreign' visions of religious law, and nationally and religiously imagined communities.

Independent authorities

Further research (in 2007-8) took place in mosques and the offices of major religious figures such as Lebanon's own Ayatollah Muhammad Husayn Fadlallah (d. 4 July 2010), who had previously been an important focus of my research on Islamic medical ethics.

Figure 3 Ayatollah Fadlallah discussing the author's work.

Fadlallah was a figure of global significance, renowned, indeed notorious, for his political activism, but also known for his 'contemporaneity' and uniquely progressive brand of Islamic law, especially with regard to women's rights (Clarke n.d.b). Fadlallah's followers argued that this 'open-mindedness' (*infitah*) was distinctively Lebanese, born of the country's exceptional religious diversity. Such localism is shared by many Lebanese Sunnis opposed, for instance, to 'Saudi' visions of Islam (Rougier 2007), although the opinions of Egyptian 'global mufti' Shaykh Qaradawi (Skovgaard-Petersen & Graf 2008), currently based in Qatar, are also popular. The Lebanese state-sanctioned Shi'i courts, however, dismissed Fadlallah's opinions, favouring those of Najaf, Iraq. Authorities untainted by collaboration with the state, such as Fadlallah, nevertheless gain popular and professional legitimacy just as they lose the power to convert their ideas into 'policy'.

Digital calligraphy

The proliferation of internet-based authorities such as Fadlallah necessitates new ways of anchoring personal religious authority. While at Manchester I have published a major research article documenting the ways in which the Shi'i Ayatollahs and their offices make use of digital scanning technology to reproduce signatures, seals and handwriting, in order to authenticate such correspondence (Clarke 2010).
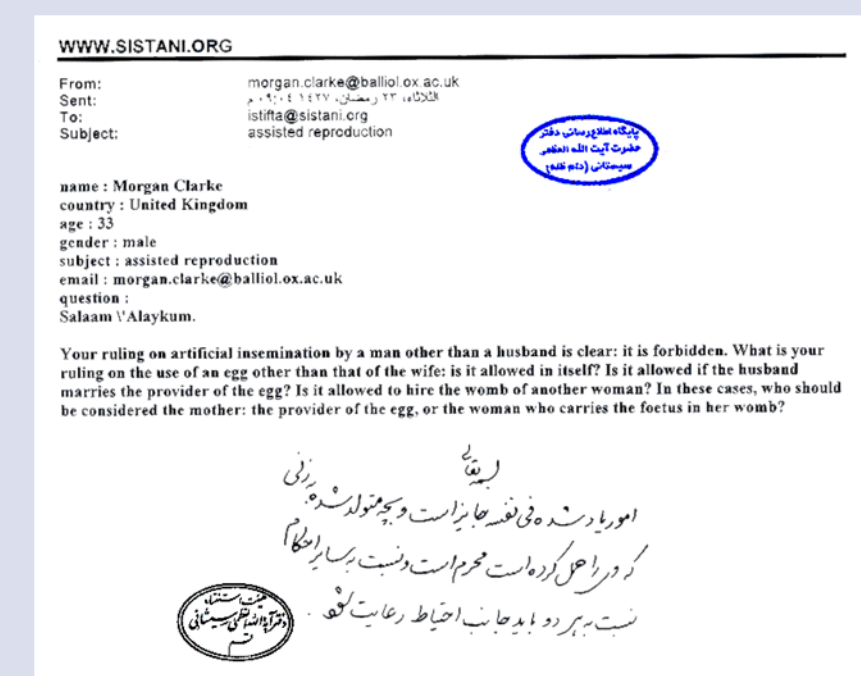

Figure 4 Reply from the offices of Ayatollah Sistani of Iraq to a query from the author, using the authenticating devices of handwriting and the offices' seal, sent as a scanned email attachment.

Methodology

The historical connectivity of the Islamic scholarly world has been exponentially intensified by such modern communication and travel technologies and complicated by nation-state boundaries. Such complexities require agile methodologies. Rather than statically observing the import and export of ideas, texts, scholars and the *shari'a* minded, I will follow them through ethnographic fieldwork tracking my Lebanese contacts' networks to the important contemporary economic and religious centres of the Arabic-speaking Muslim world, Saudi Arabia and the Gulf States: Kuwait and (political circumstances permitting) Bahrain, where Ayatollah Fadlallah was and remains widely followed by Shi'is and to which his scholarly network extends; and the cosmopolitan 'global cities' (Marchal 2005) of the UAE. Research will focus on working with religious specialists in settings such as religious courts, *fatwa*-issuing offices and mosques, as well as with non-specialist Muslims in tracing the biographies of the *fatwas* and rulings (*ahkam*) that scholars produce. It will also entail the gathering and analysis of textual, audiovisual and internet materials. Fieldwork with scholars and communities based in Britain will further enrich the account of this intensely connected and densely networked field.

Outcomes

The primary output of the project will be a series of publications, including a monograph and a number of articles in major journals spanning disciplinary boundaries. But it is also hoped that these will be the catalyst for a larger project drawing together scholars working on other areas but on allied themes that will enable these patterns of connectivity and mobility to be mapped over progressively larger areas, eventually incorporating expertise on Iran, Central, South and South-East Asia, North and Sub-Saharan Africa and Europe and North America.

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