Theme Issue: Methods of Dating Early Legal Traditions

Introduction

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The Problem

What can we know about the beginnings of Islam in general and Islamic law in particular? This question has occupied Western research for more than 150 years and, although many answers have been proposed, to date, no enduring consensus has been reached. The differences of opinion are in large part the result of the precarious nature of the source material. There are no trustworthy direct sources on Islamic law and jurisprudence from the first century and a half. Most of the sources that contain information on this period originated in subsequent centuries. The sources suggest or even expressly assert that their knowledge about early times is based on earlier oral and/or written sources.

Opinions differ about whether or not, and the extent to which, these sources are credible and their claims verifiable. Two extreme positions have emerged. On the one side are skeptics who reject the existence—indeed, the very possibility—of scientifically grounded knowledge about the first century and a half of Islam. They treat statements in the sources on the early period as back-projections of later circumstances and ideas. Prominent exponents of source skepticism are I. Goldziher, J. Schacht, J. Wansbrough, M. Cook, P. Crone, N. Calder and G.R. Hawting.¹ On the other side are scholars who place considerable trust

¹ The views of the skeptics differ, of course, in detail.
in source statements on the early period and, on this basis, attempt to
describe or reconstruct the historical beginnings of Islam and Islamic
law. This group includes born Muslims, like M.Z. Ṣiddīqī, M. Sibāʿī,
F. Sezgin, A. Hasan and M.M. Azami, and non-Muslims, like
N. Abbott. In addition, some scholars, for diverse reasons, reject radic-
al scepticism and try to tread a path between the two extremes. This
group includes, among others, J. Robson, N.J. Coulson, D.S. Powers,
J. van Ess, M. Muranyi, H. Motzki and G. Schoeler.2 Publications by
scholars of any of the three camps frequently receive critical com-
mentary from proponents of the other camps. This is a good thing, as there
can be no scientific progress without criticism.

Attempts to Solve the Problem

Are there ways to solve the problem of the competing paradigms? Some
proponents of the middle ground look for new methods that make it
possible to check the claims made by the sources of having transmitted
earlier reports or retrieved information from earlier sources.

The sources for early Islam contain several types of information. The
mutūn (sg. matn) or texts of the traditions that purport to describe
historical events are often furnished with asānīd (sg. isnād), i.e., a list
of the names of the putative transmitters of the texts. The names alone
would offer little help were it not for the biographical lexica available
from the 3rd century onwards, which contain information on these
persons, e.g., familial and geographical origin, contact with other schol-
ars, change of residence, assessments of their abilities as transmitters,
and dates of death. The skeptics reject all three source types—mutūn,

2) See, for example, H. Motzki, The Origins of Islamic Jurisprudence. Meccan Fiqh before the
der islamischen Jurisprudenz. Ihre Entwicklung in Mekka bis zur Mitte des 2./8. Jahrhunderts,
Stuttgart 1991); H. Berg, “Ḥadīth Criticism,” in idem, The Development of Exegesis in Early
Islam. The Authenticity of Muslim Literature from the Formative Period, Richmond, Surrey
2000, 6-64; H. Motzki, “The Question of the Authenticity of Muslim Traditions Recon-
and 293-324; K.S. Vikør, “The Truth about Cats and Dogs: The Historicity of Early
Islamic Law,” Historisk Tidsskrift, 82/1 [2003], 1-17; H. Morzki, “Introduction,” in idem