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Abstract – Sektion 3, Panel 1

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Thema *The right to dissent - an essential construction mode of Islamic Law*

Islamic Jurisprudence has its origins in the teaching of private scholars, not in the normative enactments of religious or political institutions. Consequently, dissent between the scholars has accompanied the history of Islamic Law from its very beginnings. It has been important for the discussions on the sources and the methods of Islamic Law, it played an important role in the development of new forms of legal literature, the court procedure and, of course, for the public disputations between dissenting scholars. The status of Muslims under non-Muslim rule as well as the status of Non-Muslims under Muslim rule has been controversially discussed between and within the law schools. The recognition of historical change in the norms of the law has led, from the twelfth century on, to a systematic epistemology of dissent within the law and its effects on the religious and scholarly status of the law. This epistemology has exerted its influence on legal thought in the following centuries. In the 20th century it is still an object of legal debates and -in the jurisprudence of modern constitutional courts - an instrument for the reinterpretation of Muslim law and its reintegration into modern state law.