

Conference Paper

# Ideology and Practice in the Legal System in Gaza under Hamas

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## Conclusion

Pressure from Salafi groups has enabled Hamas to intensify its Islamisation of Palestinian society through both formal and informal mechanisms. Nevertheless, despite some moves towards shifting cultural norms in Gaza, Hamas continues to operate a formal system in Gaza which uses the physical and legal infrastructure of the pre-existing system. The efforts of ideologues are predominantly channelled into the informal sector, which enjoys official support but has not supplanted the formal judiciary. Nevertheless in its efforts to balance competing interests of the general population and the movement's rank-and-file the Hamas authorities have exacerbated the tensions between a pre-existing two tier system, in which informal and formal judicial sectors operate side-by-side – just as they have in other sectors, including the economy (where Hamas oversees both the tunnels and formal trade), and the security forces (police units and Qassam brigades). At heart, this dichotomy underpins the tensions which continue to course through the Islamist movement between its role as an opposition movement and governing authority.

Hamas officials advocating a gradual process of Shari'a application argue that Shari'a will become only fully applicable once economic and political circumstances improve. This author argues the reverse. Most moves towards Islamisation have come at a time when the Hamas authorities faced greatest internal or external pressure – for instance in the immediate aftermath of the Gaza war, or at the height of Salafi dissent in the summer of 2009. Constraints on Hamas's room for manoeuvre externally have further concentrated its energies on its greater room for manoeuvre internally. Unable to deliver on physical reconstruction and recovery, the movement has focussed more on the one area open to it - Islamic reconstruction. At the same time, the withdrawal of external powers has given Islamist groups a freer hand to effect change in Gaza.

An end to western, Palestinian and Israeli isolation of Gaza and an improvement in Gaza's lot generally, is likely to empower groups with external connections, and impede rather than accelerate Gaza's Islamisation. By contrast, the alternative – of maintaining the closure - is likely to hasten the application of Sharia norms.