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Abstracts

“Work Ethics in Muslim Culture: The Transformation of an Obligation into a Right”

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Although work is one of the main determinants in most people’s lives, research on this area is unfortunately still dominated by economic considerations. Especially in Muslim societies, theological and more importantly legal, social and psychological aspects of work remain seriously understudied. Such lack in current scholarship stands in stark contrast to the relevance that work-related debates have recently gained in the Middle East. The unemployment-related ‘Arab Spring’, for example, reflects many Muslims’ perception of work as a right, equal to the right of life, and can as such be studied as the latest stage in the historical development of work in Muslim culture. This research project seeks to study the legal qualification of work in Muslim legal literature. For instance it seeks to study how work changed from being an obligation in pre-modern era to a right in current legal debate. This paper will focus on two aspects of the legal debate:

The legal aspect constitutes the main issue in this project; it focuses on the study of two legal norms that play a crucial role in Muslim thought: the concepts of obligation (ar. fardh/ wajib) and that of right (Haqq). These norms are highly important in Muslims' religious , social and legal life. They are involved in Muslims' relations to others their social life and to their environment . As far as work ethics are concerned, the Islamic legal literature from the classical period (8th-11th century) reflects on a debate between two contradictory theological perceptions regarding these two paradigms mentioned above (obligation and right).

On the one hand there exists the stream of ascetics and pious Muslims, who support the doctrine of ‘non-work’. They regard praying as the main duty of Muslims and promote a fatalistic concept of "trusting God", using the Quranic promise to provide those who believe in God with a living as a primary religious reference. Rewards are thus uncoupled from work. Those views constituted the dominant ideology during the first century of Islam. Accordingly, work only served the purpose of surviving, and self-sufficiency was the most predominant economic activity throughout the Muslim formative period. The role of the state was merely to collect taxes and alms from the rich and to divide them among the poor. Another stream of Muslim scholars argued that work was an obligation and considered it more important than praying. This stream was represented by the four sunni schools of law and prominent theologians and thinkers like Muhammad ash-Shaybani, Al-Ghazali and Ibn Khaldoun. The emphasis of obligation, and the necessity of work, dominated the Muslim culture from the 9th century onward.

As mentioned above, the recent uprisings in Arab countries revealed a new trend and a new conception of work which has never existed in Muslim countries before. The paradigmatic change from seeing work as an option to seeing it as part and parcel of one’s identity and as a duty (for men and women) needs to be studied deeply. It is particularly the role of (social and legal) education in some Muslim states such as Tunisia that would need to be taken into consideration. After all, it aimed at building a foundation of civil society by giving courses in matters like human rights or civil society. This led to a crucial change in the conception of work ethics which could be compared with

work ethics in other Muslim societies like that of the Gulf states. This research project aims at studying classical legal sources as well as modern legal debate in Muslim societies in order to analyse how the perceptions of obligations and rights have changed over time. The subject of work will function as a case study in analysing the changed meaning and usage of the legal norms of obligations and rights.

“Making Ethics Theological through Qur’anic Exegesis”

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In deriving ethics through exegesis, religious ethicists often see morality in terms of cases and particular actions. But there are Muslim exegetes who see human action, including human interaction, not as an end unto itself but as a way of enhancing the God-human relationship. Some even see the proper understanding of the purpose and meaning of the Qur’an as a means of ensuring that enhancement.

One such example is Shaykh Muḥammad Mitwalli Sha’rāwī. Sha’rāwī became an ‘alim preacher celebrity when in 1980 he began his television show *Nūr ‘ala Nūr*, Light upon Light, which aired every Friday afternoon on national television until right before his death in 1998. His sermons remain popular today, on Egyptian television and also through Youtube and apps.

In his public preaching Sha’rāwī presented morality to the people by presenting all human concerns, including ethical concerns, as the subject of divine intentions. He made ethics theological by claiming that God demonstrated bounty by giving humanity a correct system of life through the Qur’an. For Sha’rāwī the Qur’an comprised legislation that, when practiced, would become a moral way of life, one built upon rules but not limited to them. Thus for him the purpose of creation was for humanity to worship and praise God, but this was dependent on the derivation of correct meaning from the Qur’an.

As an example Sha’rāwī spoke about fighting in God’s way (*qātīlū fi sabil allah*) (Q 2:190) by comparing Quranic verses and then posing an interesting moral dilemma: What happens when the Qur’an allows an act that is morally ambiguous? For example the Qur’an allows fighting for retaliation, but states that those who “pardon their enemies and make peace, their reward rests with God – for God does not love evildoers’ (Q 42:40). In posing this dilemma Sha’rāwī reasoned intra-textually to state that something that the Qur’an allows is actually problematic. The risk comes when believers behave in a way that is allowed, but could also make them evildoers because they are performing an action hated by God. By posing the issue this way Sha’rāwī could be seen as indirectly referencing the different categories of acts according to the shari‘a (i.e. retaliation was not prohibited (*ḥarām*), but it was reprehensible (*makrūh*)). Instead he emphasized that what is permitted is not necessarily the most moral action. He did not pose the issue according to the categorization of acts because for him the most moral response was to act in a way that was pleasing to God, which in this case meant making peace.

Sha’rāwī’s approach did not focus on action as a telos; actions themselves did not represent the pinnacle of the God-human relationship for him. In this situation he emphasized something he talked about repeatedly in his sermons, that human responsibility in every action is to increase the

love between creator and creature, as a form of mutual affection. Thus he made the choice to act out of love for God the ultimate act of worship, and thus the ultimate moral choice.

“Application of Maqasid al-Shari’ah in Islamic Chaplaincy”

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How to live a virtuous life? Do we know what is good for us? Do we have the freedom to pursue happiness and search for what brings meaning to our lives? In this paper, I will address the application of *Maqasid Al-Sharia* to bridge the barriers to providing spiritual care services to Muslim patients based on *Hifh ad-Din*, preservation of religion, as a way to provide religious support to Muslim patients.

Hospital chaplains in the United States provide spiritual care to religiously and culturally diverse patients. Religious leaders, especially Christian, train lay leaders and organize ministries to provide spiritual care to patients. Patients communicate with their faith leader prior to or during hospitalization, or upon discharge to receive sacraments of the sick. However, quantitative research conducted in 2012 revealed that Muslim patients rarely receive Islamic spiritual care services during their hospitalization. In addition, a qualitative research uncovered that Muslims face intrapersonal and interpersonal barriers that limit their access to spiritual care services.

The Joint Commission on the Accreditation of Healthcare Organizations (TJC) issues recommendations for hospitals in regards to identification of religious preference of patients, spiritual assessment, and accommodation of religious and spiritual needs. However, TJC requires hospitals and hospices to conduct assessment of spiritual needs on patients receiving end-of-life care. In my research concluded in 2012, over 40% of Muslim patients reported never being asked about religious preference. Whenever asked, 48% will withhold their Muslim identity, and 48% thinks hospitals collect it for statistical purposes. Upon closer examination “other” and “no religious preference” patient lists, numerous Muslim-sounding names were detected. Once hospitalized, 75% claimed a chaplain didn’t visit them, and 45% declined to contact an Imam even after becoming knowledgeable about Islamic chaplaincy. A significant 93% of patients researched will list their faith as Muslim in future hospitalizations, 90% won’t call an Imam, and 73% will decline requests to pray for them after Friday prayers. On the other hand, Muslim patients overwhelmingly welcome spiritual care services, if offered by Muslim chaplains and volunteers.

Dr. Mohammad Kamali claims the higher objective of *al-Shari’ah* is a manifestly important and yet somewhat neglected discipline. *Shari’ah* generally is predicated on benefits (*Maṣāliḥ*) to the individual and the community, and its laws are designed to protect these benefits and to facilitate the improvement and perfection of the conditions of human life (Kamali 2008). Compassion (*Raḥmah*) and guidance (*Huda*) are two primary objectives of Shari’ah. Hence, compassion and mercy were embodied in the mission of the Prophet (pbuh) as mercy to the worlds, and guidance to humanity. The manifestations of the objectives seek to establish justice (4:135), eliminate prejudice (5:8), and alleviate hardship (2:185). Islamic chaplaincy is deeply rooted in *Maṣlahah* as it provides religious support within the three levels of necessity: the essential (*darūriyyāt*), the complementary (*ḥājjiyyāt*) and the desirable or the embellishments (*taḥsiniyyāt*).

“Muslims, Animals, and Modernity: A Triangle of an Unhappy Love”

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Although scholarship on animals in Islam is growing, to my knowledge most of it remains focused on the normative and historical dimensions of this subject. The few pieces that refer to the current situation are generally sketchy and often founded on anecdotal evidence or cursory readings of primary sources and empirical data. Many discussions of this topic are also presented within uncritical and sometimes even polemical frameworks, whereby Muslims' attitudes toward other animals are evaluated through the prism of controversial criteria or distorted to fit a particular narrative. In view of this, a fairly informed assessment of the state of animal welfare in the Muslim world and Muslims' current attitudes toward nonhuman animals is not easily detectable, particularly from the current state of western scholarship.

This said, the view that Muslims' attitude toward the natural world have declined -a view that is reflected in the works of Richard Foltz, Seyyed Hossein Nasr, and others- even if not sufficiently nuanced, is still demonstrable. Indeed, in his recent study, Alan Mikhail shed light on the traumatizing historical developments that eventually led to the current situation. Irrespective of its origin, however, the condition of animal welfare among Muslims has probably reached its lowest point throughout Islamic history and needs to be addressed. Factory farming has become a major source of animal products in many Muslim countries. Live animal transportation is a common practice in the Muslim world. Insecticides are used widely in agriculture, industry, medical institutions, and households. Habitat depletion has led to the extinction and/or dislocation of many species. Many wild animals are confined inside zoo cages in Muslim cities. Biomedical research is not a major issue in the Muslim world, but many research institutions in the West count among their members Muslim students and researchers who experiment on nonhuman animals. More isolated incidents, such as the mass killing of pigs in Egypt during the so-called swine influenza outbreak (2009) and the mistreatment of animals of burden, often noticed in the streets of Arab and perhaps other Muslim streets, may be added to the list.

This state is not unique to Muslims, of course; the same applies to other societies and is primarily due to the advent of modernity. The situation with Muslims is particularly noteworthy, however, first because the current callousness contrasts drastically with the tradition's longstanding sensitivity to the wellbeing of nonhuman animals; and second, because Muslim societies seem hardly aware of the extent of this deterioration. In this paper, I would like to highlight a few areas where animal welfare has declined at the empirical level. I would like also to highlight the change in attitudes toward nonhuman species, reflected, for example, in the legal and religious discourses, and which, of course, is not without major consequences. This analysis will also allow me to build on Mikhail's conclusions by considering the specific factors through which change in attitudes gradually took shape. Finally I will reiterate why this topic is worthy of attention and raise the question of whether, and how, this state can be reversed.

“Social Justice and Islamic Legal/Ethical Order: A Case Study from the Prophetic Period”

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This paper analyses a case study from the prophetic period revealing how social justice is perceived from an Islamic perspective and how it is implemented in a legal setting. The paper explore a question quite relevant to the modern period: how does the modern state deal with different religious communities from a social and political perspective? The liberal secular model tolerates religious difference as long as it is confined to private practice, while one secular law dominates the legal and public dealings. One criticism of this model revolves around the concept of identity, the constant need for people to demonstrate a public identity different their private one, for acceptance and assimilation. John Rawls, the leading theorist on modern Liberalism, proposes public dealings performed behind a “veil of ignorance” where people interact publicly by stressing commonalities and ignoring/hiding private differences to avoid conflict. While the theory has been generally endorsed in the West, critiques attribute to its practice the absence of a sense of community, lack of social cohesion, and injustices against disenfranchised communities.

Islamic ideology, based on the Qur’an and prophetic practice shed a different light on this matter. Prophet Muhammad organized a multi-religious community upon his immigration to Medina in 622 CE. A copy of the constitution which united Muslims and Jews in that nascent civic *umma* was preserved in the prophetic *sīra*. This research analyzes that constitution (comprising 47 decrees), along with the Quranic verses that descended in that period addressing the regulation of social, public and political relations between the different religious communities. This paper is a section of a larger work that explores the concept of the *umma* in the Quran (through the lens of four exegetical sources from the 9th century and the modern period) and the *sīra*.

One striking observation of the Medina charter is its incorporation of religious and ethnic diversity in public through the constitution as a law document and through legal pluralism (each religious group resorts to its own religious law). Yet in matters that affect the mutual dealings between the religious communities and ethnic groups, as well as defense of the common territory, the law becomes common. The layout of the constitution shows a buildup of multi-layers of rights and duties attributed to the respective communities. The *umma* expanded from the Muslim community (along with its ethnic diversity) to incorporating the Jewish diverse community then enlarged to include allies or individuals, hence the addressee at the end of the charter became *Ahl al-Ṣaḥīfa* (“the people of the constitution”). What is consistent across the Medina charter is the way the legal public document mirrored the private differences, not only by acknowledging them but also by organizing its law around these differences.

This paper shows a new perspective about social justice where differences are not hidden in private, yet their public manifestation does not jeopardize social harmony. The charter puts in practice the Quranic ethical understanding of diversity as enriching humans’ knowledge about their differences rather than dealing with them behind a “veil of ignorance”.

“The Concept of Ridha (Approval) in the Quran and the Misunderstanding of Coexistence”

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My paper will basically be informed by the following verse: *in surat l-baqarah*, the Quran states,

وَلَنْ تَرْضَىٰ عَنْكَ الْيَهُودُ وَلَا النَّصَارَىٰ حَتَّىٰ تَتَّبِعَ مِلَّتَهُمْ قُلْ إِنَّ هُدَىٰ اللَّهِ هُوَ الْهُدَىٰ وَلَئِنِ اتَّبَعْتَ أَهْوَاءَهُمْ بَعْدَ الَّذِي جَاءَكَ مِنَ (الْعِلْمِ مَا لَكَ مِنَ اللَّهِ مِنْ وَلِيٍّ وَلَا نَصِيرٍ 120)

I render it in English as:

Never will the Jews or the Christians approve of you until you follow their religion. Say, "Indeed, Allah's guidance is *the* guidance." If you were to follow their liking after the knowledge you have received, you would have no protector from Allah or a helper. (2:20)

In this paper, I discuss the “popular” reference and circulation of this verse among many Muslims who announce it as a reaction against Jews and Christians. I will show how many social media websites and online commentaries use this verse to declare that there is a supposedly innate plotting or war from Jews and Christians against Islam. This popularity will be discussed before moving to the second part of the paper, which is to show the misinterpretation associated with such reference and Quranic verse. I argue that this verse is directed to Prophet Mohammad, with a specific historical context, and that any use of it as a timeless reference is not accurate. The third part of the paper is about peaceful coexistence among Muslims, Jews, and Christians and how while in practice it existed and still exists, relying on abstractions such as “ridha” and misunderstanding leads to lack of coexistence and the discourse thereof. The core of my paper is based on explication of the concept of Ridha and showing that it is more neutral and less aggressive in the context of this verse than it is commonly understood.

“Wasatiyya Political Discourse after the Arab Spring: The Case of Jāsir ‘Awda’s *Bayn al-Sharī‘a wa-l-Siyāsa*”

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In the wake of the Arab revolutions, a number of Islamist authors have written works that demonstrate that significant and substantive shifts have taken place in Islamist discourse on political matters in recent years. My paper explores the work of an author whose discourse can be seen, generally speaking, as falling within the mainstream trend (*al-tayyār al-wasatī*) within contemporary Islamism. Jāsir ‘Awda (Jasser Auda) published a short work in 2012 entitled *Bayn al-Sharī‘a wa-l-Siyāsa: As’ila li-Marḥalat Mā ba’d al-Thawra* which exemplifies his attempt at adapting the Islamic religious tradition to the modern context. This seems to entail significant breaks with aspects of the historical legal tradition of Islam.

One way of characterizing this shift is to describe it as the dethroning of the fiqh tradition in favor of ethical discourses that are anchored more substantively in a conception of human reason that can generate ethical norms to guide Muslims. Such seems to be the direction of the *maqāṣid*-oriented discourses of many mainstream Islamists today, although ‘Awda appears to be on the ‘liberal’ end of the *wasatī* Islamist spectrum. His commitment to certain Islamic norms ensures his Islamic identity,

despite his interpretations that allow for explaining the inapplicability of laws that were deemed applicable and necessarily a part of the Islamic tradition by jurists throughout the pre-modern Islamic period in areas where Muslims had political ascendancy. I briefly explore the implications of appealing to such a conception of ethics, and norms of good and evil, justice and injustice, and where they fit in to the historical Islamic scholarly tradition. I also discuss which past scholars 'Awda most appeals to in making his arguments.

The paper concludes with an explanation of why such shifts are taking place, and what challenges they face given the nature of the scriptural tradition, and the anti-Mu'tazilī/anti-rationalist tendencies of the Islamic mainstream throughout pre-modern history. There is a somewhat troubling question for such scholars of whether what they are advocating suggests a discomfort on their part with traditional Islamic teachings, even ones that can be attributed to the Prophet and the early Companions. I end highlighting what 'Awda's appeal to the authority of the 'ulamā' tells us regarding their perduring authority into the modern period.

“Two Shi'i Jurisprudential Methodologies to Address Contemporary Challenges: Traditional *Ijtihad* and Foundational *Ijtihad*”

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Reformists have invoked the legal-ethical dynamism of *ijtihad* by advancing hermeneutical, exegetical, and juridical devices within the existing framework of Shi'i legal theory. This can be found in expanding the scope of reason (*'aql*), lacunae or the discretionary area (*mintaqat al-faragh*); and introducing such juridical devices as time (*zaman*), place (*makan*), customary practice (*'urf*), and public welfare (*maslaha*). In addition, such secondary precepts as necessity (*darura*), emergency (*idtirar*), need (*haja*), averting difficulty (*usr*) and distress (*haraj*), hardship (*mashaqqa*), and harm (*darar*) are invoked as exceptions that allow for minor legal adjustments to find dispensations or exemptions. But these devices do not resolve the problems with traditional *ijtihad* in tackling modern challenges. Moreover, these secondary precepts could undermine the integrity of the juristic theory if they are invoked to justify a disregard for the law or to legitimize a stratagem (*hila*).

The paper will examine the positions of Shi'i jurists and religious scholars who advocate “traditional *ijtihad*” and contrast them with those who opine that it has reached its limits of flexibility and thus can neither resolve contemporary challenges in areas such as medical and bioethical domains nor address other pressing issues as the compatibility between Islam and human rights, and gender equality. The second approach, known as “foundational *ijtihad*” (*ijtihad dar usul*), which stands in contrast to derivative *ijtihad* (*ijtihad dar furu'*), is best characterized by the jurist Dr. Mohsen Kadivar and, to a lesser extent, Ayatollahs Muhammad Husayn Fadlalla (d. 2010), Mohaghegh Damad, Mohammed Shabestari, Ahmed Qabil (d. 2012), Mohammad Jannati, and Mohammed Mousavi Bojnordi. In the latter approach to *ijtihad*, the revelatory texts are read with an appreciation that some of the legal rulings in the area of social transactions (*mu'amalat*) could be subject to revision if a “reasonable” person would judge it to be unjust and unethical, even if there is an explicit textual evidence in the Qur'an or the Sunna validating the “abrogated” ruling in a different historical and social context. The “abrogated” ruling is understood to be of a temporary nature and not permanent and fixed, based on the principle of gradualism, notion of justice that can evolve with the passage of time, and shift of emphasis from individual to societal ethics. A case in point is slavery.

Foundational *ijtihad* attempts to reconstruct an Islamic thought that is indigenous to the Islamic

tradition, a system of thought that encompasses philosophy, theology, morality, and *fiqh*. It is also characterized by an organic relationship among reason, theology, law and ethics, history, modern sciences, fundamental principles of Islamic legal theory, and *fiqh*.

Partisans of both approaches acknowledge that there is a specific separation among religious rituals (*‘ibadat*) and the belief system (*‘aqida*) on the one hand and human inter-relations and social affairs (*mu‘amalat*) on the other. In general, the former are constant, immutable, essential, and trans-historical rulings that leave little or no room for contextualization or creative reinterpretation. But the latter, which consist of rules of conduct and behavior, are open to public negotiation in a space that accommodates civic pluralism, however, this bifurcation has recently been challenged by Wael Hallaq in his work *The Impossible State*.

“The Ethical Structure of Imām al-Ḥaramayn al-Juwaynī’s *uṣūl al-fiqh*”

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Imām al-Ḥaramayn al-Juwaynī’s definition of law (*fiqh*) as knowledge of legal values (*aḥkām*), his definitions of those legal values, several of his interpretive principles, and other features of his legal theory (*uṣūl al-fiqh*) give Islamic law the structure of a deontological, consequentialist, individualistic, and particularistic ethical system. Comparing his vision of the law with other types of ethical systems suggests alternative ways in which Islamic law might be envisioned and defined, and reveals the deep significance of seemingly minor points of legal theory like the definitions of technical terms. In this paper, the ethical structure of al-Juwaynī’s widely taught legal theory will be compared with natural law, virtue ethics, utilitarianism, existentialism, and rule-based ethical systems, and several alternative possibilities for structuring legal theory and defining its key terms will be suggested by these comparisons. The goal will be to imagine what legal theory might look like if it were structured around the cultivation of virtues, the establishment of certain kinds of interpersonal relationships, or the articulation of general moral principles, rather than around the eternal consequences of particular actions for the individuals who perform them. These possibilities would require not only different definitions of key terms, but also different approaches to the interpretation of revealed texts. Resources for reshaping legal theory around such alternative ethical structures will be found within the discipline of *uṣūl al-fiqh* itself, and in other Islamic disciplines. No particular reformulation of legal theory will be advocated, but it will be argued that imagining alternatives helps us to understand al-Juwaynī’s own legal theory. We do not fully understand the significance of the theoretical choices made by scholars of *uṣūl al-fiqh* until we imagine what Islamic law would look like if they had chosen differently.

“Necessity and Ethical Hierarchy in Islamic Law”

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This paper argues that the dialectical relationship between ethical and legal norms and their influence upon the discretion of Muslim jurists is key to discern the ethical hierarchy in Islamic law. The theory of necessity (*ḍarūra*) affirms a hierarchy of values necessitated by the various types of individual and collective rights in the Muslim legal literature. Necessity in Islamic jurisprudence is rooted in the moral choices inspired by the doctrine of the choice of lesser evil. The top category in

this hierarchy is preserving human life and attaining public interest. In this paper, I contend that the intersection of the moral and legal norms in Islamic law reveals a consequentialist ethical justification of Islamic jurisprudence designed to guide believers to overcome moral dilemmas and human impulses by rising above them. This aspect is crystalized in the differentiation between ethical/religious and judicial norms in Islamic law.

Furthermore, the legal choices made by Muslim jurists, especially Ḥanafīs, are based on a hierarchy of values whose order is governed by balancing the harms in pursuit of lesser evil. Ḥanafīs assert that the individual may violate a legal ruling in order to avoid greater evil. In this context, breaking the law might be a legal duty. In fact, Ḥanafīs emphasize the obligation upon the individual to eat carrion, swine, or to drink wine to avoid death. Moreover, they utilize the theory of necessity to justify infringement upon certain private rights such as taking others' food to avoid starvation or to take shelter on private property to avoid fatality. I argue that the nature of rights affected, whether individual or collective, or rights of God, are essential components to the understanding of the legal preferences of Ḥanafī jurists. Therefore, this type of ethics, and the moral hierarchy it produces, informs us of the premodern Islamic moral concerns and priorities.

“*Fiqh al-Zakah* in India and the Emergence of New Applied Ethics of Socioeconomic Justice: Case Studies of Islamic Charities”

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Scholarship thus far has investigated Islamic ethics of economic practice primarily with regard to only two features of Muslim economies: *waqf* and Islamic finance. Islamic banking literature (Kuran 1986, Maurer 2005, Tobin 2014) highlights certain practices ubiquitous in global financial institutions today with origins in Islamic medieval-era (especially Hanafi) transaction law. Academic scholarship has represented *waqf* as a central institution for social welfare, particular in Muslim history (McChesney 1990, Singer 2008) but also today (Benthall & Bellion-Jourdan 2003). Yet, as Said Amir Arjomand (1998: 11) noted, “it was the non-Koranic *waqf*...and not the Koranic norms of charity – *sadaqa* and *zakah* – that became the legal foundation of philanthropy in Islam.” Arjomand’s observation does not seem to hold anymore today – the importance of *zakah* as a *shari’a*-based ethical and legal concern of ordinary Muslims is rapidly coming to the fore in societies as diverse as Egypt (Atia 2012), Malabar coast (Osella & Osella 2009), and north India (Taylor forthcoming). An important shift is occurring in Muslim societies, as traditional forms of Islamic almsgiving within networks of kinship and locality give way to the utilization of Islamic charity for “development” and widespread poverty-alleviation. This paper investigates how “new” Islamic charities in north India are constructing and disseminating applied economic ethical practices rooted in *zakah*. I argue that this emergence of a new ethics of economic practice is distinct from similar moral-economic endeavors which are based on the prohibition of *riba*, Islamic redistributive state, or *waqf* endowments. What makes new Islamic charities’ emergent ethics of *zakah* so radical is their (a) embrace of distinctly modern ideas of individualized social action and (b) new technologies of communication and modalities of management that facilitate public fundraising on an unprecedented scale. Most surprisingly, *‘ulama* are at the forefront of constructing this emergent *zakah* ethics, belying notions of Muslim scholars as reactionary traditionalists (cf. Zaman 2002). This paper is based on 18 months of PhD research done among Islamic charities in Lucknow, India and study of *fiqh al-zakah* for three months in India’s well-known Dar ul-‘Uloom Nadwat ul-‘Ulama. The paper will compare the organizational practices of Islamic charities with *fatama* issued at Nadwa and

Deoband, highlighting ways in which charity workers understand such injunctions, apply them in everyday work, and at times re-interpret opinions to further their goals of social justice for India's impoverished Muslims.

Islamic jurisprudence on almsgiving is an area of Islamic law that demonstrates the astonishing centrality of ethics across disparate parts of *shari'a*. Wael Hallaq (2009:231) observed that “among all the ‘branches’ of the law, *zakat* is unique in that it has a dualistic character” – rooted deeply in both ritual (*ibadat*) and in tax & transactional jurisprudence (*mu'amalat*). As such, *fiqh al-zakah* is a unique line of inquiry for study of ethics in *shari'a*, given that a key distinguishing feature of *shari'a* is the inseparable nature of legal and moral concerns (Hallaq 2009:84). At a time when *shari'a* is profoundly misunderstood due to secular Western understandings of law as merely “legal” and not essentially also “moral”, the Islamic ethics inherent in *zakat* jurisprudence are all the more relevant for academic study, if *shari'a* is realize its full potential contribution to today's society enamored with “secular ethics”.

“Symbolic and Identity-Based Contestations: The Evolution of Marriage Law in Indonesia”

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What are the implications of global Islamic revival on women's rights? I answer this question by examining the impact that revival in Islamic piety has on laws affecting women's rights in Indonesia. Given the plurality of traditions inherent within Islamic jurisprudence and the ethics underlining *Shariah* Law as well as the democratizing impulses in Indonesia, I ask, what is the legitimizing discourse underwriting Islamic family law that pertains to women's rights? In other words, whose definition of law that arranges and stipulates gender relations is authoritative? How have authoritative discourses underwriting women's rights in Islamic family law changed over the years? As part of my dissertation research, I spent 12 months in Indonesia (Jakarta and Yogyakarta) where I conducted over 80 interviews with the leaders and members of Muslim women's organizations and Islamic institutions. I gathered over 100 documents dating back from the 1930s to present. These documents comprise of organizational material (magazines, newspapers and conference decisions) and parliamentary transcripts. In this paper, I present a chapter of my dissertation research focusing on longitudinal analysis of changes in regulations and statutes of marriage law in Indonesia. The main contribution of this paper is that I develop a theoretical framework, which juxtaposes symbolic and identity-based contestation of Islamic family law. This framework identifies how the relationship between Islamic actors, opponents and the state shapes the discursive and concrete strategies employed by Islamic actors. These two factors ultimately shape women's rights actors ability to influence discourse, debates and statutes on marriage law. Because women's movements are at the center of pushing for women's rights, I examine the conditions under which Muslim women's organizations are able to adapt and integrate universal discourses on human rights and gender equality into Islamic family law. I identify three historical phases where I observe a change in terms of the contestation over Islamic family law. I argue that after the 1990s, contestation over Islamic family law has changed from a symbolic to an identity-based contestation.

My argument here is that, the differences in Muslim women's organizations ability to shape discourses and statutes of Islamic family law, emerge from them being embedded in two kinds of political contestations - symbolic and identity-based contestations. In symbolic-based contestation Islamic actors do not argue over concrete interpretations of Islamic family law. Despite being associated with different methodological orientations (modernist and traditionalist), Islamic actors will resist addressing these differences in favor of upholding Islamic authority within the governing

elite. Each Islamic political party's fear of losing legitimate authority over Islam, is overshadowed by a larger threat of state's desire to undermine Islamic authority altogether. As a result, Muslim women's organizations together with the women's movement were unable to influence authoritative discourses underwriting law. On the other hand, in identity-based contestation, Islamic opponents and the state accept that Islamic authorities should have control over family law pertaining to Muslims. At the same time, while Islamic parties continue to promote and integrate Islamic principles and values into positive law, these parties have relinquished their goals for an Islamic state. In the Indonesian case, these gradual changes were observed after the 1990s. As Islamic family law is secured under the authority of Islamic factions, modernist parties advocate for stricter regulation of polygamous marriages and compulsory judicial registration of marriages and divorces. Contestation over the legitimate interpretation of Islamic doctrine has expanded Muslim women's organizations ability to integrate gender-just principles into Islamic family law.