Conference, Symposium, and Panel Reports

Islamic Law and Ethics

The Summer Institute for Scholars 2014, held at the IIIT headquarters in Herndon, VA, from June 16-21, 2014, brought together a group of scholars to address "Islamic Law and Ethics." In order to present as many of their ideas as possible, the wide-ranging and thought-provoking comments of the chairs and the discussants are not recounted here.

Special Lecture. Abdulaziz Sachedina (George Mason University, "Law and Ethics in Islamic Jurisprudence") asked how Islamic law can be made viable today, how *ijtihād* can make Islamic law relevant, and how its methodology can be expanded to deal with issues raised by modernity. Asserting that the legal schools' founders were connected with their societies and thus could modify the prevalent methodology to resolve new issues, he wondered why this was not the case today. Given that 90 percent of Islam deals with one's conduct, jurists need to go back to theology (now almost completely ignored) and seek to understand the ethical dimensions of actions.

Special Panel 1. "Reform of Higher Education in the Muslim World." **Ermin Sinanović** (IIIT) pointed out the growing gap in educational standards and achievements between Muslim and highly industrialized societies, the ongoing production of mediocre results in higher education, and the lack of any Muslim university listed among the world's top 150 universities. He maintained that current indigenous reform attempts are largely imitative and thus have no Islamic grounding. Moreover, the crisis is systemic and the result of many negative cultural and academic traits that discourage innovative academic research. IIIT is focused on the traditional system of education, the impact and challenges of globalization, innovation, and the role of women in higher education. **Abdul Aziz Sachedina** presented the conceptual framework. The philosophy of education is to build and then develop minds. He is, therefore, more concerned with undergraduate students because that is where the potential lies. Education is not only about teaching academic disciplines, but also about teaching the approaches that can be used to approach complex problems in society. He con-

tends that Muslims run away from the humanities and social sciences because anything new will go against tradition. As we have not created the necessary curricula, teacher training programs, or critical thinking programs, how can we undertake any serious reform? The whole system has to be overhauled, and a relevant paradigm has to be devised and implemented. **Ebrahim Moosa** (Duke University) said that Islamic thought cannot be reduced to identity politics and ideological projects. He is more concerned with the "knowledge" project that goes under the sign of "Islam." No longer producing knowledge, we have latched on to pieces of information and turned the result into an ideological project, which only causes stagnation. He related his own experience of being intimidated by the prospect of asking about "revealed" knowledge, and wondered how this generation feels doing such a thing. But how else do you attract inspiring teachers and make people love knowledge and curiosity, the possibility of difference? All of this has to start with the Sunday school students.

Special Lecture. Carl W. Ernst (University of North Carolina – Chapel Hill, "Pluralism in Islamic Ethics") opened by stating that there is no single approach to Islamic ethics, which, in itself, is an "outsider" term absent from Islamic texts. Analytical distinctions are useful for scholars, but are not very reflective of the life world of Islamic moral choice. He concluded by noting that contemporary discussions on ethics are often carried out in reference to major thinkers.

Special Panel 2. "Ethics in *Maqāṣid al-Sharī'ah*, Politics, and Policy." **Jasser Auda** (Qatar Faculty of Islamic Studies, "Realizing Islamic Ethics in the Islamic Rules") stated that Muslims need to formulate an Islamic ethical discourse so they can dialogue with non-Muslims and practice ethics in their own lives. This can be done by integrating ethics into both types of *fiqh* (action and spirituality) to develop a science of ethics. The best way to renew *fiqh* so that it can answer contemporary ethical questions is to integrate the *maqāṣid al-Sharī'ah* into *fiqh*. He considers ethics to be best translated by the term *maqāṣid al-Sharī'ah*, which is why he argues for its integration into the human, and therefore flexible, undertaking of *fiqh* that is subject to continual modification in order to ensure continual relevancy. **Jonathan Brown** (Georgetown University) discussed the great diversity of the early Islamic legal heritage. This can be either a blessing, because it provides many legitimate tools for resolving problems, or a risk, because it can result in a technically legitimate Shari'ah based on anomalous licenses and dispensations to justify fulfilling one's desires. Scholars need to look at such issues in the same way as do judges and muftis (i.e., articulators of Islamic ethics).

Paper Session 1. Hamid Mavani (Claremont Graduate University, "Two Shi'i Jurisprudential Methodologies to Address Contemporary Challenges: Traditional *Ijtihād* and Foundational *Ijtihād*") remarked that when the Imam is not accessible, the best option for Twelver Shi'i jurists is to perform *ijtihād* in an attempt to maximize our efforts to understand one's moral/ethical obligations. As certainty is no longer possible, the community needs qualified jurists and scholars who can derive *fiqh* (a human undertaking and therefore fallible and subject to revision) from the Shari'ah (eternal and immutable). The usual practice when confronted with modern issues that have not been ruled upon is to find loopholes or strategies to somehow resolve them. But as these are only patches, they can offer no permanent solution. In other words, we are playing games with God. He stated that permanent solutions can only be reached via a structural/foundational *ijtihād* that can deal with the methodology itself, not just the branches, and that the modern sciences and other disciplines must be included in this process. **Usaama al-Azami** (Princeton University, "Law and Ethics in the Wake of the Arab Revolutions") spoke on how Islamist political thought has developed among Islamist ulema over the last thirty years. His main focus was a publication by Jasser Auda, *Bayn al-Sharī'ah wa al-Siyāsah: As'ilah li Marḥalah mā ba'd al-Thawrāt*, which deals with specific *fiqh* issues related to governance. It is, therefore, a blend of *fiqh* and the *uṣūl* discourse. One of the issues it discusses is how western values and those held by twentieth-century Islamists can be brought closer together. According to al-Azami, Auda represents a new trend – a greater rapprochement with western values rather than with the uncompromising rejectionist stands of Sayyid Qutb and similar figures. After a brief elaboration upon various historical views as to whether people can know what is good and evil and the human intellect's role in determining such matters, he switched to what Auda is doing with respect to political discourse.

Paper Sesion 2. Jacquelene Brinton's (University of Kansas, "Making Ethics Theological through Qur'anic Exegesis") main interest is what is being related to the people in terms of how decisions about how to act are filtering down to them. After noting that ethics are about intentions, capacity, and outcome, as well as how those things are related to acts, she focused on Muhammad Mutawalli al-Sha'raawi (d. 1998). According to her, this popular moderate Egyptian television preacher was able to connect with the people in a very effective way by simplifying his ideas, as well as making them relevant and personalistic to the people at a time when the Egyptian ulema had lost a great deal of their authority. Brinton stated that al-Sha'raawi's based many of his ideas on the love between the believer and God. She then discussed his *theology of action*,

a term that she prefers over the still ambiguous term *ethics*. **Mouez Khalfaoui** (University of Tuebingen, "Work Ethics in Muslim Culture: The Transformation of an Obligation into a Right") is interested in how Islamic law, culture, and history view work. According to him, both the Qur'an and Hadith have a positive attitude toward work, but only vis-à-vis wealth and poverty. During the formative period of Islamic thought, the relevant theological debate consisted of three chronological strands: (1) whether it is better to pray (a duty) or to work (live on donations). In the first stage, theologians usually favored prayer because the poor have a right to part of a rich person's wealth; (2) one needs to find a balance between work (first fulfill your rights to your family) and prayer; (3) and, finally, that it is better to work than pray. He also presented post-colonial nationalist arguments that work is an obligation when it comes to building the nation-state. But during Tunisia's revolution, work was presented as a right – a significant change that puts Muslims right in the middle of modernity.

Paper Session 3. David R. Vishanoff (University of Oklahoma, "The Ethical Structure of Imam al-Haramayn al-Juwayni's *Uṣūl al-Fiqh*") sought to "take some basic terminology, basic categories out of western ethical thought" and tease them out in al-Juwayni's classic and very influential text. According to him, the first part discusses nature of revelation and principles about revealed languages, and the second one discusses the tools and methodologies that can be used to derive rulings. **Samy Ayoub** (University of Arizona, "Necessity and Ethical Hierarchy in Islamic Law") made several points: Conflict resolution is the core function of any legal tradition, Muslim jurists have always regarded *fiqh*'s key function as maintaining order and social harmony, and Islamic law also deals with ethics. However, Muslims need to see jurists as lawyers, not as moral philosophers, because *fiqh* is a human endeavor. In other words, Islamic law is a legal system, not a moral code. Muslims need to understand the law's actual function: to reaffirm social and moral norms, not to reconstruct moral and social realities.

Paper Session 4. Shahirah Mahmood (University of Wisconsin-Madison, "Symbolic and Identity-based Contestations: The Evolution of Marriage Law in Indonesia") analyzed the approaches of Aisyiah (the women's wing of the Muhammadiya) and Muslimat NU (the women's wing of Nahdlatual Ulama), toward the Islamic mission's role in society. She explained how the 1974 codified marriage law ended unregistered marriage and its associated abuses by husbands, and why these movements have apparently paradoxical goals. Her research focused on "moderate Muslim organizations" and their approaches to Qur'anic exegesis, hadith, and *fiqh*: (1) selecting verses that foreground equal-

ity, (2) citing hadith and *tafsīr* that evoke some notion of gender equality, and (3) determining the revelation's surrounding context, drawing ethical principles of Islamic law, and applying the results. **Christopher Taylor** (Boston University, "*Fiqh al-Zakāh* in India and the Emergence of New Applied Ethics of Socioeconomic Justice: Case Studies of Islamic Charities") began by stating that he prefers *Islamic alms-giving*, for this includes *khums* and *ṣadaqat* as well as zakat. His major theme was that the practice of zakat as a purity ethic (the giver's spiritual wellbeing and modesty) is moving toward a developmentalist ethic (the recipient's material wellbeing). This movement is a bit of a change as regards the traditional applied ethics. Over time, more focus has been placed on zakat as a ritual practice, which, according to a recent Pew Research Survey, is being observed more than the daily prayers.

Paper Session 5. Kamal Abu-Shamsieh (Graduate Theological Union, "Application of *Maqāṣid al-Sharī'ah* in Islamic Chaplaincy") wants to reform Islamic chaplaincy and adopt a practical and universal methodology that incorporates the *maqāṣid al-Sharī'ah* to devise a workable framework for the ethical care of Muslim patients. After listing the many problems with the existing framework, he said that Islamic chaplaincy is a human-divine relationship and that a chaplain is the one who preserves the patient's religion and puts his/her needs first. **Sarra Tlili** (University of Florida, "Muslims, Animals, and Modernity: A Triangle of an Unhappy Love") explained how modernity has changed the Muslims' traditional attitudes toward animals from one of compassion and respect to the global norm that it has established. She attributed this change to modernity's worldview, in which only economic and scientific progress matter.

Paper Session 6. Asaad al-Saleh (University of Utah, "The Concept of *Riḍā* [Approval] in the Qur'an and the Misunderstanding of Coexistence") talked about the unexpectedly hostile online reaction to what he thought was a positive posting of his visit to a Muslim community in Michigan. He opined that this hostility reflects the fact that many Muslims still see Jews and Christians through the lens of Q. 2:120 ("Neither Jews nor Christians will be satisfied with you until you follow their religion") and do not realize that the West is predominantly secular. He also noted that this verse has no established interpretation from either the Prophet or the first three generations, and that many classical interpreters said that it applies only to the Prophet. **Katrin Jomaa** (University of Rhode Island, "Social Justice and Islamic Legal/Ethical Code: A Case Study from the Prophetic Period") presented the Constitution of Madinah as being relevant to post-Arab Spring constitutions on a variety of matters.

For example, it (1) recognized the individual parties (i.e., tribes) by name (i.e., they are equal members of the *ummah*); (2) established an open community based on legal plurality: the Muslim-specific provision 13 opposed tribalism via social pressure to implement a new legal order, and the Jewish-specific provision 25 made the "people of the house" (i.e., the Jews) responsible for their own people; and (3) provision 42 proclaimed both communities' autonomy but mandated the joint defense of Madinah. All of these are relevant to modern questions of social justice, setting up a multi-religious or pluralistic community, handling issues related to public vs. private spheres and individual vs. collective rights, and how to handle religion as part of the state.

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