Conference Reports

Workshop on Islam and Law

The Southeast Regional Middle East and Islamic Studies Society (SERMEISS) held its spring meeting on "Workshop on Islam and Law" at Emory University, Atlanta, GA, on March 6 – 8, 2020. The workshop represented a new innovative format for the organization's spring meeting. Unlike previous meetings, which included presentations on a wide range of topics related to the Middle East and North Africa (MENA) region and Islamic studies, this workshop focused exclusively on topics related to Islam and law—that is, the ways in which Islamic law, jurists, and legal institutions shape and are shaped by the normative reality of Islam and Islamic societies. It consisted of four panel sessions that analyzed practical and theoretical aspects of Islam and law.

The workshop began on the morning of Saturday, March 7th with a panel session on *Islam and Law in Historical Perspective*. Mansour Salsabili, a fellow at the Center for Middle Eastern Studies, Harvard University, Cambridge, MA, opened the session with a paper on "Religiosity and Violence: Shiite *Ulamas*' Contending Responses to the Secular Educational Modernization and the 1906 Constitutional Revolution." According to Salsabili, a comparative analysis of mid-nineteenth century *fatwas* issued by conservative and pro-reform Shiite *ulama* signifies a "unique episode" in the history of Iran. Comparing the positions of two prominent ayatollahs during the period of the Constitutional Revolution (1905–1911), he argued that Aḵūnd Mollā Moḥammad-Kāẓem Ḵorāsānī (1839–1911) and Shaikh Fażl-Allāh Nuri (1843–1909) vehemently disagreed about what could constitute a legitimate use of force, a disagreement that had "vast sociopolitical implications" in

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Iran. Salsabili demonstrated that these conflicting views stemmed from "the competition between conservative and reformist clergies" over supporters and followers in Iranian society.

The second panelist, Alexander Thurston, University of Cincinnati, Cincinnati, OH, gave a talk on "Fiqh Polemics and Power in Early Postcolonial Mauritania." Through an examination of a polemical book published in the mid-1960s by the former mufti of Mauritania, Buddah al-Busayri (1920–2009), entitled *Asna al-Masalik fi Anna Man 'Amila bi-l-Rajih Ma Kharaja 'an Madhhab al-Imam Malik* (The Brightest of Paths: He Who Works with the Preponderant Evidence Has Not Left the School of Imam Malik) which advocated for a "correct way to perform the ritual prayer (*salah*)," Thurston argued that the book was a "proxy for much wider struggles over power and politics … between reformist activists, traditionalist scholars, and modernist state functionaries," who sought to define the nature of law in the emerging Islamic Republic of Mauritania.

Next was a presentation on "Islamic Family Law in Post-Reformist Iran: Progressions and Regressions" by Samaneh Oladi Ghadikolaei, assistant professor, Virginia Commonwealth University, Richmond, VA. This paper highlighted that, contrary to popular perception, female activists have been able to influence the legislative process of family law during the period that followed the establishment of the Islamic Republic of Iran. After analyzing the changes that were implemented by the regime in the legal age of marriage and the rules of guardianship (*wāli*), Oladi Ghadikolaei asserted that female activists "propagat[ed] [a] culture of egalitarianism that merg[ed] social science with religious science that was neither unjust nor male-centered."

The second panel session which highlighted *Islam and Law in Theory and Practice* began with a paper on "*Maqasid al-Shariah*: A Muslim Perspective on Human Rights" by Faroukh Hakeem, associate professor, North Carolina Agricultural and Technical State University, Greensboro, NC. As Hakeem described, *Maqasid al-Shariah* (goals and objectives of Islamic law) is the Islamic legal doctrine that is concerned with protecting human rights, which includes all aspects of daily life and the preservation of faith. Hakeem stated that although "words such as *Haqq/Huquq* are often translated as rights, its implications are not the same when compared to the Western idea of rights. Under the Islamic conception, *Haqq* (rights) also imply obligations, and more specifically the distribution of the bonds of indebtedness that exist between sentient human beings in society." This system of rights and obligations, he continued, "is highly organized and developed." Moreover, Hakeem asserted that human rights as they are recognized by the Universal Declaration of Human Rights "are virtually the same as those taught by Islam." His presentation generated an active discussion on the compatibility of Islamic law with international human rights law in various contexts.

This was followed by a presentation from Jumana al-Ahmad, a Lecturer at Wake Forest University, Winston-Salem, NC, on "A Feminist Turn in Islamic Jurisprudence for Social Justice." According to al-Ahmad, who focused on the writings of Tunisian activist and scholar Dr. Zahia Jouirou, a "new reading and understating of the Qur'an" is not only possible, but necessary for the "stronger participation of women in … religious studies." Al-Ahmad emphasized that Dr. Jouirou's unique contribution to Islamic jurisprudence is that she "strives to find solutions from within an Islamic framework particularly based on the openness of the Qur'anic text and the multiple possibilities of renewed understanding" in order to stop the ongoing legitimation of "unfairness and oppression against women in the name of religion."

The third paper was delivered by Rahimjon Abdugafurov, Ph.D. Candidate in Emory University's Islamic Civilizations Studies program, Atlanta, GA, on "Islamic Legal Hypocrisy: A Comparison of the Application of Abrogation (*Naskh*) to Marriage and Intoxicants." According to Abdugafurov, whose presentation focused primarily on Hanafi legal practices in Central Asia, "it is hypocritical to apply the method of abrogation [*naskh*] selectively" to cases such as intoxication when "there is sufficient Qur'ānic evidence for abrogating the polygyny in Islam." Abdugafurov contended that such an understanding of the legal prohibition of polygyny would alleviate the grave ramifications the practice has for Muslim societies, including a possible decrease in suicide cases that are associated with it. Therefore, Abdugafurov concluded, the same legal reasoning that was applied to the case of intoxication ought to be applied to the case of polygamy. Doing so would result in the conclusion that Qur'anic verse 4:129 abrogated verse 4:3, rendering polygyny legally impermissible.

The workshop's keynote address was presented by Devin Stewart, Professor of Arabic and Islamic Studies and Chair of the Middle Eastern and South Asian Studies Department at Emory University, Atlanta, GA, on "Irreverence and the Fatwas of Taqi al-Dīn al-Subkī (d. 756/1355): Islamic Law and Popular Culture in Late Medieval Syria and Egypt." Stewart noted that the relationship between Islamic law and society is complex. Although "Islamic law regulates societal practices in an obvious way," at the same time "societal culture shapes the workings of Islamic law." Emphasizing the interplay between law and society, Stewart demonstrated how some social practices in fact "contravene, add to, or run parallel to Islamic law." As a result, he showed that some social practices "arise because of the restrictions of Islamic law, but not as an intended consequence."

The last two panel sessions of the workshop took place on Sunday, March 8th. The morning began with the third panel session on *Islam and Law in Comparative Perspective.* Salih Yasun, Ph.D. Candidate in Indiana University's Political Science Department, Bloomington, IN, presented a paper on "Attitudes on Family Law as an Electoral Cleavage: Evidence from Tunisia." According

to Yasun, Tunisians "who hold more egalitarian views on women's inheritance rights" are less likely to vote for Ennahda, the largest conservative party in Tunisia, and are more likely to vote for Nidaa Tounes, "the authoritarian successor party." Basing his findings on a multinomial logistic regression analysis of Afro-barometer data, Yasun contended that "family law in Tunisia constitutes an issue-based electoral cleavage," and that as a result of the "lack of information about the socio-economic platforms of political parties," Tunisians are likely to vote for the party whose stance on family law matters best aligns with their own individual views.

The fourth panel session which focused on *Issues in Islam and Law*, began with a presentation by Donohan Abdugafurov, Ph.D. Candidate in Emory University's Islamic Civilizations Studies program, Atlanta, GA, on "May You Live Longer: Daughters-in-Law, Elder Care and Islam in Central Asia." Abdugafurov argued that "The role of daughters-in-law in providing eldercare is visible in everyday practice in many cultures, while it is invisible in both Islamic legal texts as well as in social science literature." Her examination of historical and contemporary *fatwas* from Central Asia revealed that although forcing a married woman to care for her spouse's parents was deemed legally impermissible, a daughter-in-law's "moral quality" depended on her willingness to care for her in-laws. As a result, such an expectation imposes a "disadvantageous position" on such women.

The last presentation in this session was on "Arab Semantics as Legal Enterprise" given by A. Z. Obeidat, assistant professor, Wake Forest University, Winston-Salem, NC. According to Obeidat, whose paper focused on an analysis of Arabic semantics within the Hanafi School, there are three dimensions to that school's semantic theory: "(1) The clarity and ambiguity of the statement's reference; (2) The nature of membership inclusion in these statements and how reference to these members is either individually specified or collectively restricted; and (3) Indirect meanings seen in the techniques of indication, entailment, implication, and opposite implication." Obeidat argued that Ḥanafi semanticians need to be neither literalists nor esoteric since both approaches "reveal inappropriate understandings of the nature of linguistic meaning." Instead, the extraction of textual meaning must be accomplished through "objective comparisons and contrasts and with utilization of subjective linguistic intuitions." Only by adopting such an interpretive approach, Obeidat concluded, the "greater natural and sociolinguist world of ideas and facts" that is embodied in the text may be properly understood.

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