CILE International Seminar

The State and Public Morality in Muslim Contexts and Beyond

Conference Room 4-second floor-Minaretien Building

Doha, Qatar

9-11 May 2022

Program

Day 1	Monday May 09, 2022

11:00- 11:30	Opening and Orientation
	
	  - *Emad Shahin* (CIS Dean)
	
	  - *Mohammad Ghaly* (CILE Acting Director)
	
	  - *Abdessamad Belhaj* (UCLouvain-NUPS)

11:30- 12:30	القيم السياسية بين الماضي والحاضر: قراءة في النص والتاريخ لؤي صافي الأخلاقي والسياسي بين التدويل والخصوصية: دراسة في الاجتماع السياسي الإسلامي محمد أمزيان
12:30- 12:45	Break
12:45- 13:30	Discussion *Mutaz al-Khatib and Abdessamad Belhaj*
13:30- 14:10	Polemic on the Authority of Ḥisba as Public Morality Enforcement in The View of Ibn Khaldun and Al-Ghazali - *Anggi Azzuhri*
14:10- 14:25	Break
14:25-14:55	Response & Discussion Respondent*: - Rasha Bader*

18:00- 20:00	<u>Public lecture: The State and Public Morality in Muslim Contexts and Beyond</u>
	  - *Abdessamad Belhaj*
	  - *Takao Kenichiro*
	  - *Carool Kersten*
	Mohammed Ghaly (Moderator)

Day 2	Tuesday May 10, 2021
10:00- 10:10	Opening and orientation - *Mohammed Ghaly*
10:10- 10:50	Statehood, Religion, and Public morality in Indonesia - *Carool Kersten*
10:50- 11:05	Break
11:05- 11:35	Response & Discussion Respondents: - Anggi Azzuhri
11:35- 12.15	Legal Enforcement of Islamic Morality and the Rule of Change: A Study of Modern Iran - *Zahra Azhar & Shirin Boroomand*
12.15- 12:30	**Break**
12:30- 13:00	Response & Discussion Respondent: - Takao Kenichiro
13:00- 13:40	Translating Islamic Ethics into Modern Institutions: Debates on the Separation of Islam and State in Colonial Algeria, 1947–1954 - *Shoko Watanabe*
13:40- 13:55	**Break**
13:55- 14:25	Response & Discussion - Respondent: *Abdessamad Belhaj*

Day 3	Wednesday May 11, 2022
10:00- 10:10	Opening and Orientation - *Mohammed Ghaly*
10:10- 10:50	Islamic Law and the State in the Gulf: The Political Work of Qāḍī ʿAbd Allāh b. Zayd Āl Maḥmūd (1911–1997) - *Alexandre Caeiro*
10:50- 11:05	Break
11:05- 11:35	Response & Discussion - Respondent: *Shoko Watanabe*
11:35- 12:15	Public Morality Facing Modernity in Saudi Arabia: What the Committee for the Promotion of Virtue and the Prevention of Vice had Challenged *Takao Kenichiro*
12:15- 12:30	Break
12:30- 13:00	Response & Discussion - Respondent: *Shirin Boroomand*
13:00- 13:40	Enforcing public morality through public health policy: an exploration of public health ethics and Islamic ethics through tobacco control as an applied example - *Rasha Bader*
13:40- 13:55	Break
13:55-14:25	Response & Discussion - Respondent: - *Zahra Azhar*
14:25- 15:00	Concluding Remarks and Publication - *Abdessamad Belhaj* & *Mohammad Ghaly* (CILE)

Opening Speeches

Emad Shahin (CIS Dean)

Emad El-Din Shahin is the Interim Provost of Hamad Bin Khalifa University (HBKU) and the Dean of HBKU's College of Islamic Studies (CIS), Qatar Foundation. Before joining CIS, he was the Hasib Sabbagh Distinguished Visiting Chair of Arabic and Islamic Studies, a visiting professor of Political Science at the School of Foreign Service at Georgetown University and the editor-in-chief of The Oxford Encyclopedia of Islam and Politics.

Shahin holds a PhD (1989) from the Johns Hopkins School of Advanced International Studies, an MA (1983) and a BA (1980) from the American University in Cairo. He has taught in leading universities in the United States including Harvard, Notre Dame, Georgetown, George Washington, and Boston University.

His research and teaching interests focus on Islam and Politics, Comparative Politics, Democracy and Political Reform in Muslim societies. Shahin has authored, co-authored and co-edited six books and has more than 50 scholarly publications including journal articles, book chapters and encyclopedia entries. His publications include Political Ascent: Contemporary Islamic Movements in North Africa (1998), co-editorship with Nathan Brown of The Struggle over Democracy in the Middle East and North Africa (2010); and co-authorship of Islam and Democracy (2005 in Arabic). He is the editor-in-chief of The Oxford Encyclopedia of Islam and Politics (2014) and co-editor with John L. Esposito of The Oxford Handbook of Islam and Politics (2013).

Previously, Shahin was a Distinguished Visiting Scholar at Columbia University (April 2014-March 15), public policy scholar at The Woodrow Wilson International Center for Scholars (February- August 2014). He was the Henry R. Luce Associate Professor of Religion, Conflict and Peacebuilding at the University of Notre Dame's Kroc Institute for International Peace Studies (2009-2012). He was visiting associate professor in the department of Government at Harvard University (2006-2009), faculty affiliate with the Kennedy School of Government, and visiting scholar in the Islamic Legal Studies Program at Harvard Law School (2006-2007).

Shahin was nominated two years in a row for the Harvard University Joseph R. Levenson Memorial Teaching Prize, May 2007 and May 2008; and is the recipient of the AUC Excellence in Undergraduate Teaching Award for the Academic Year 2001-200

Mohammed Ghaly (CILE faActing Director)

Professor of Islam and Biomedical Ethics at the Research Center for Islamic Legislation & Ethics (CILE), Hamad Bin Khalifa University in Doha, Qatar

Dr. Mohammed Ghaly is professor of Islam and Biomedical Ethics at the Research Center for Islamic Legislation & Ethics (CILE) at Hamad Bin Khalifa University in Doha, Qatar. He has a B.A. degree in Islamic Studies from Al-Azhar University (Egypt) and M.A. and PhD degrees in the same specialization from Leiden University (the Netherlands). During the period 2007-2013, Ghaly was a faculty member at Leiden University.

The intersection of Islamic Ethics and biomedical sciences is Ghaly's main specialization. He is the editor-in-chief of the Journal of Islamic Ethics (published by Brill). Since 2011, Ghaly has been a faculty member at the Erasmus Mundus Program; the European Master of Bioethics, jointly organized by a number of European universities. Ghaly lectured on Islamic (bio)ethics at many universities worldwide including Imperial College London, Oxford University, University of Oslo, University of Chicago and Georgetown University.

Ghaly was affiliated as Visiting Scholar/Researcher with a number of universities including the Kennedy Institute of Ethics at Georgetown University, USA (academic year 2014-2015), School of Anthropology and Museum Ethnography at the University of Oxford (academic year 2017-2018) and School of Philosophy at the Erasmus University Rotterdam (academic year 2018-2019).

Besides his book Islam and Disability: Perspectives in Theology and Jurisprudence (Routledge, 2010) and the edited volumes Islamic Perspectives on the Principles of Biomedical Ethics (Imperial College & World Scientific, 2016) and Islamic Ethics and the Genome Question (Brill, 2019), Ghaly is the single author of more than thirty peer-reviewed publications and serves on the editorial board of a number of academic journals. He is also the Lead Principal Investigator (LPI) and research consultant of a number of funded research projects. His publications can be accessed via https://cilecenter.academia.edu/MohammedGhaly.

Abdessamad Belhaj (Senior Researcher at UCLouvain-NUPS)

Belhaj Abdessamad is Senior Researcher at the Interdisciplinary Center for the Study of Islam in the Contemporary World (UCLouvain-Belgium) and at the Research Institute for Religion and Society (NUPS-Hungary).

Belhaj holds a PhD in Islamic Studies from the Muhammad V University in Rabat (2001) and a second PhD in Political and Social Sciences from the Catholic University of Louvain (Belgium, 2008). He has been visiting lecturer or researcher in Germany (Freie Universität Berlin), France (Université de Strasbourg; Université de Lyon 2), Finland (Académie de Finlande-Université de Jyväskylä) and Belgium (Université de Namur; Université Saint-Louis).

In 2015, Belhaj published The Ethical Thesis: Practical Reason in Islamic Legal Hermeneutics. His latest book is L'autorité dans l'islam sunnite: Discours, figures et enjeux d'acteurs musulmans en Belgique francophone (2022).

Presenters & Respondents

القيم السياسية بين الماضي والحاضر: قراءة في النص والتاريخ

Speaker: Louay Safi

Dr. Louay Safi is Professor of Political Science and Islamic Thought at CIS and Senior Fellow with the Institute of Social Policy and Understanding (ISPU) and Georgetown University's Center for Muslim-Christian Understanding (ACMCU). Dr. Safi has been active in defending human rights and promoting democracy for over two decades. He is a founding member of the Syrian National Council (SNC) and the Syrian National Coalition (2011–2014). He is also co-founder and first chair of the Syrian American Council (2005–2011), and co-founder and former board member of the Center for the Study of Islam and Democracy (1999–2007).   He is a prolific author and frequent speaker on issues of human rights, the Middle East, peace, leadership, and Islam and the West, and an advocate of human rights and civil liberties. He has authored 20 books, including "The Qur'anic Narrative" (Praeger 2008), "Tensions and Transitions in the Muslim World" (University Press of America, 2003), "Peace and the Limits of War" (IIIT 2001), and "The Challenge of Modernity" (University Press of America, 1994). Dr. Safi has considerable experience in developing communications strategy as the Communications Director of the Islamic Society of North America (ISNA) and the official spokesperson of the main Syrian Opposition. He has appeared on numerous radio and TV programs, including CNN, BBC, Monte Carlo, Fox News, Sky News, Voice of America, PBS, Middle East TV (MBC), Aljazeera News and Aljazeera English, Al Arabiya News, Russia Today, Alhurra, Malaysian TV, Turkish TV, Syrian TV, Canada TV (CTV), Future TV, and others.

Speaker: Mohammed Amezzian

Mohammed Mohammed Amezzian is Professor of Islamic Studies and Islamic Political Thought, college of Sharia of Islamic Studies, Qatar university. Between 2005 and 2010, he was Professor of Islamic civilization, Zayed University, Abu Dhabi, UAE. Between 1989 and 2005, he was Assistant Professor, then Professor of Islamic Studies at the College of Arts and Human Sciences,The University of Mohamed 1st, Oujda, Morocco.

Amezzian holds a Ph.D. in Islamic Studies from Faculty of Letters and Human Sciences, The University of Mohamed 1st, Oujda (Morocco), 2000.

He published in Arabic several books on Islamic epistemology and political thought and ethics, including *al-Fiqh al-siyāsī: muqāraba tāriīkhiyya* (2001).

Respondent: Mutaz al-Khatib and Abdessamad Belhaj

Dr. Mutaz al-Khatib (PhD) Associate Professor of Methodology and Ethics is currently Assistant Professor of Methodology and Ethics at the Research Center for Islamic Legislation and Ethics, as well as the first-of-its-kind MA program in Applied Islamic Ethics at the College of Islamic Studies at Hamad Bin Khalifa University. He holds a BA in Islamic Studies from Damascus (1997) and in Arabic Literature from Al-Azhar University.

Al-Khatib was a founding member of the al-Multaqā al-Fikrī li-l Ibdā' (Intellectual Forum for Innovation, 1999), and the anchor of "Al Sharia wa-l Ḥayāt" program on Al Jazeera Channel (2004 - 2013). He was also Editor-in-Chief of the section "Islam and Contemporary Affairs" on IslamOnline.net (2003-2008). He was a visiting fellow at ZMO in Berlin (2006) and a visiting scholar at the Forum Transregionale Studien, Berlin (2012-2013) as well as a Visiting Lecturer at the American University of Beirut, the Islamic University of Beirut and Qatar University. He has presented lectures at various reputable academic institutions. He is a reviewer for a number of journals and has authored and edited several books and over 30 academic articles on Ḥadīth criticism, Islamic Ethics, Islamic intellectual history, Maqāṣid (the higher objectives of Sharia) and Islamic Law. He has also written numerous journal articles for Arabic language newspapers and magazines.

Speaker: Anggi Azzuhri

Anggi Azzuhri is a research director in Taskopruzade Research Institute and assistant editor at padebooks, an academic publisher that focuses on social science and Islamic studies. He completed his Master degree in Islamic Studies at Hamad bin Khalifa University and currently applying for a doctoral program at Duke University. Following the graduation from HBKU, Anggi moved to Turkey to work as Research Assistant at Ibn Haldun University but later returned to Indonesia following the pandemic to join the padebooks team and establishing Taskopruzade Institute. During the study at HBKU, Anggi Azzuhri focuses on Quranic studies and Islamic philosophy. He continues working on these disciplines while in Turkey and Indonesia, adding Political Ethics and Usul Fiqh. At the moment, he has published an article in an academic journal; the article discusses the conception of Tabayyun as a fundamental of Islamic society (DOI: 10.24239/jsi.v17i2.603.27-46). Two other papers are waiting to be published, the first one examines Farabi's ethics in modern politics, and another one discusses problems in Qur'an translation into the Indonesian language. He often posts articles on Taskopruzade institute website (English) and Kompasiana (Indonesian).

Abstract

Several Muslim countries constitutionally employ ḥisba as their (Islamic) law enforcement. Saudi Arabia, Iran, and Egypt are the most notable countries that apply ḥisba as an official enforcement institution. Their duties vary but are restricted to the Shari'a law monitoring. Looking at the state theorist's notion on ḥisba in Islamic tradition, we can assume that there are at least two conceptions on ḥisba; the first group emphasizes its function, i.e., promoting the good, forbidding evil. Meaning that any Muslim who does the function is called muhtasib, although he is not a government official; this view is associated with Al-Ghazali. The second group focuses on ḥisba as a law and morality enforcement office; Ibn Khaldun and Al-māwardī hold this view. If these two concepts are brought to the modern context, those mentioned countries applied the second group's theory on ḥisba. However, in reality, ḥisba enforcement occasionally targets things that the Shari'a law does not disapprove like closing the artery road during Friday prayer, arresting people who have a non-Islamic haircut, or declaring apostasy on certain citizens. If the state appropriately utilizes ḥisba, their supposed duties are prohibiting vandalism before it happens or detaining public alcohol drinkers. This reality problem returns to the main question: assuming that Shari'a covers public morality issues, to what extent the ḥisba is authorized to conduct Shari'a enforcement? However, before tackling that issue, it may be asked whether Al-amru bil ma'ruf wan nahyu 'an al-munkar is a compulsory duty for each Muslim or a particular authorized institution? Then what is the ideal approach in the enforcement process? These two questions will give a framework regarding state authority in regulating public morality. Through extensive and critical reading on Al-Ghazali's and Ibn Khaldun's treaties, the ḥisba concept can be outlined specifically before introducing it to the modern condition. The reading will extract the definition, urgency, duties, and ideal conducting approach of ḥisba. The main argument for this study is that the method of ḥisba in public morality enforcement is preventive and persuasive, differing from the police system; thus, they are not authorized to conduct investigation and punishment when the morality code is violated, and must work within the moral

code boundary.

Respondent: Rasha Bader

Rasha K. Bader is a public health professional with 10 years of experience as a program manager in tobacco control, during which she was engaged in policy development at the local and regional levels. Prior to her work in tobacco control she worked as a consultant and trainer for several development projects. In addition to her BSc in Engineering, she earned her MBA from the Owen School of Management at Vanderbilt University. She also holds the Global Tobacco Control Certificate from the Bloomberg School of Public Health at Johns Hopkins University, and is a certified Project Management Professional. She is currently pursuing her MA in Applied Islamic Ethics at the College of Islamic Studies at Hamad Bin Khalifa University. This paper is part of her master's thesis towards fulfilling the degree requirements

Speaker: Carool Kersten

Reader (Associate Professor) in the Study of Islam & the Muslim World, King's College London

has been at King's College London between 2007 and 2022. Before that he was a faculty member at the Centre for International and Graduate Studies at Payap University in Thailand. He has also been an associate lecturer at the Open University (UK), a guest lecturer at the Institute of Ismaili Institute (IIS), a research associate at the Institute of Philosophical Studies in Koper (Slovenia), and research affiliate at the Asia Research Institute (ARI) of the National University of Singapore. Dr Kersten has a PhD in the study of religions from SOAS; an MA (cum laude) in Arabic and Middle Eastern Studies from Radboud University Nijmegen (Netherlands); and a Certificate in Southeast Asian Studies from Payap University (Thailand). He is also a sworn translator with the Courts in the Netherlands and a member of the Chartered Institute of Linguists (CIOL) in the UK. Before turning to an academic career, he worked for 12 years in the corporate sector, including 10 years as an expatriate in Saudi Arabia. He was appointed recently as Professor at the Catholic University of Leuven in Belgium.

Abstract

As a scholar of Islam specializing in the intellectual history of the modern Muslim world, in this paper I will examine the question of state and public morality in Muslim contexts on a meta-level by dissecting the political-historical setting and institutional framework of both state and non-state actors in the unfolding of this dynamics. Taking the world's largest Muslim nation state, Indonesia, as a case study, an explanation of the relation between state and public morality, requires attention for several sub-themes.

First of all, the political historical-context. In this section, I discuss the formation of Indonesia as an independent Muslim majority nation state, the role of the proclamation of the quasi-state Doctrine of Five Principles (Pancasila) in 1945, and its continuing significance throughout the country's postcolonial political history as evinced by its invocation by successive governments. On grounds of its demographic plurality, Pancasila enables Indonesia to profile itself as a religious rather than Islamic state. At the same time, the country's political system leaves room for non-state actors, including Islamic mass organizations, founded during the final decades of colonial rule, to play a prominent role in public life, including claims on government offices, such as the Ministry of

Religious Affairs, and quasi-state institutions, such as the Indonesian Ulama Council (MUI).

The remainder of the paper will focus on developments after the regime change of 1999. The democratization process heralded during this so-called Reformasi Era opened up the public space to unprecedented opportunities for exercising political rights and freedoms, in which religious authority figures played a prominent role. The robustness of this transformation was tested by a growing polarization affecting Indonesian public life. Important factors in this challenge to the integrity of Indonesian society are the formation of political parties with overt Islamist agendas and the emergence of vigilante organizations as self-appointed guardians of public morality, but also the decentralization of government administration and devolution of powers from national to regional and local authorities and the concomitant "Shariatization from below" in various part of the Indonesian archipelago, as well as the increasing assertiveness of the Indonesian Ulama Council through the issuance of fatwas on public morality questions. Navigating these treacherous political waters requires a delicate balancing of powers between state institutions, political parties, and Islamic mass organizations whereby the surveillance of public morality offers a valuable barometer for relative political influence and power.

Respondent: - Anggi Azzuhri

Speaker: Zahra Azhar & Shirin Boroomand

Zahra Azhar (Ph.D.) is Legal Assistant to Iranian Arbitrators, Iran United States Claims Tribunal. She is a scholar in Public Law and a lecturer in different universities in IRAN and Afghanistan. She mainly teaches Islam and Public law at Adyan University (Qom). Zahra was director of Mofid University legal clinic from 2016-2017. She is a member of GLOBAL ALLIANCE for JUSTICE EDUCATION (Gaje) and a member of THE INTERNATIONAL SOCIETY OF PUBLIC LAW (ICON). Since 2020 she has started her job as a Legal Assistant to Iranian Arbitrators in IUSCT (The Hague, Netherlands). Her field of interest and research is focused on State studies and the Islamic legal system, especially the shiea Imamie approach. Her Ph.D. thesis also focused on the state's legal personality: a comparative study between Shia and catholic practices. Her most recent publication, A Comparative Study on the Foundations of the State's Legal Personality in the Political Thought of Hobbes and Mohammad Bagher Sabzevari, continues this research. "The role of Sharia in women's rights in Iran: promotion and restriction" and "The Origins of Nation and Subjecthood in Ancient Rome: from Gens to Subjecthood, from Citizenship to Nation" are other peer-reviewed articles in her field of study.

Shirin Boroomand Ph.D. of Public Law, Shahid Beheshti University of Tehran, Iran. Shirin Boroomand is a Public Law graduate of the Shahid Beheshti University of Tehran, Iran. She has done her Ph.D. thesis on "The Impact of Global Justice Theory on the Concept of Law", part of which was dedicated to Islamic theories of global justice. She has published as a co-author a paper on "Implication of Global Justice Theories for the Concept of Law" extracted from her thesis. As her master dissertation, she worked on the "Grounds for the Formation of Modern Law". Also, she has been working in the field of bioethics and medical law since 2015 where she authored and co-authored several scientific papers in the field, including but not limited to: "Fetal Reduction: A Comparative Legal Study" (2021), "Agents of Justice in Global Health" (2019), "As Infertile' Couples and Iranian Legal System: A Theoretical and Comparative Study" (2018), etc. She has also presented several abstracts, namely, "Mother's

Abstract

The "Rule of Change" as Hart has named it, is one of the criteria of a modern law that refers to the potential of a legal system to criticize, reform and change its laws based on philosophical, functional, political, or sociological perspectives. On the other hand, the sacred and therefore unchanged basis of Islamic Norms, is a salient feature in every legal system which is derived from Sharia or it claims so. The question we intend to answer here is whether legal enforcement of Islamic normativity may challenge the critical function of the rule of change in a given legal system? In other words, shall we consider the sanctity or immortality of some Islamic norms, as a threat to the modernity of law in Muslim communities? To respond, we will dive deep into a theoretical framework, where we elaborate that states in societies that are composed of a majority of Muslims, face a critical dilemma whether to act as the guardian of Islamic normativity or instead, safeguard the free but probably the immoral act of their citizens. Later, taking real legal cases in Iran and with the help of case studies, we try to follow how the principle of change is met and performed in each of the options which are in front of the state in Muslim countries. By contradicting and comparing cases that the state has gone through different ways to secure public morality in Muslim-based societies, we will conclude that the state has to choose between preserving the dynamics of the law and retaining its divine roots. To evaluate which one is plausible, we will get back to the cases to explore the consequences of each way. In the end, by separating positive and critical morality we will justify why the necessities and requirements in front of a modern state, would make it to secure the dynamics of the law rather than its divine sources. In this way, the state must assign the enforcement of Islamic morality to the personal choices of Muslim citizens.

Respondent: Takao Kenichiro

A research fellow of the Middle East Institute of Japan, and junior research fellow of the Research Institute for Languages and Cultures of Asia and Africa, Tokyo University of Foreign Studies, Japan. His main concern is religious policies in Muslim countries, especially in Saudi Arabia. He graduated and got his Th.D. (Doctor of Theology) in 2014 from Doshisha University at Kyoto, Japan, on Sufism and Salafism in Modern Syria. He has written several articles and books about the relationship between religion and politics in the Islamic countries.

Speaker: Shoko Watanabe

An Associate Professor at the Institute of Advanced Studies on Asia, at the University of Tokyo, Japan. Before obtaining her PhD from the University of Tokyo, she spent part of her training in the Centre de Recherche en Economie Appliquée pour le Développement, at the University of Algiers-Bouzaréah (2006–2009). Her research interests center on Islamic education, Islamic reform movements, and their relationship to national liberation movements in the Maghrib countries (Algeria, Tunisia, and Morocco) during the French/Spanish colonial period. Her publications include "Making an Arab-Muslim Elite in Paris: The Pan-Maghrib Student Movement of the 1930s," International Journal of Middle East Studies, 53(3): 439–454, 2021; "The Party of God: The Association of Algerian Muslim ʿUlamaʾ in Contention with the Nationalist Movement after World War II," International Journal of Middle East Studies, 50(2): 271–290, 2018; "A Forgotten Mobilization: The Tunisian Volunteer Movement for Palestine in 1948," Journal of the Economic and Social History of the Orient, 60: 488–523, 2017.

Abstract

Classical Sunni constitutional theory assumes that the legal relationships between men are supported by the theological relationships between God and man. The *imām* or Caliph, is elected by the Muslim community, but the authority he exercises is not his own: it is God's authority. This implies that if the premise that God is the only source of law were not maintained, the legal relationships between humans would lose moral legitimacy. If modernity entails the separation of law and ethics, there would be no state laws that could be justified theologically. In such a situation, how is it possible for Muslims to restore the lost moral authority of any legal institution over the Muslim community?

In France, the famous law of the separation of church and state (1905) affirms the principles of the modern secular state. This paper analyzes the discussions of the Mesbah Commission, founded in 1951 in the Algerian colonial parliament, concerning how to put into practice the legal separation of Islam from the state. Instead of focusing on the antagonistic relationship between the French administration and the Muslim resistance, this paper deals with a more general conflict behind this relationship: the tension between the secular state and the Islamic communal ethics that Algerian Muslims tried to translate in modern institutional bodies. It discusses the underlying reasons for the

French authorities rejecting the Mesbah bill. It also examines debates among Muslims with differing opinions.

The analysis of the Muslim opinions concerning the Mesbah bill indicates that the bill included not only technical matters—such as questions of mosque maintenance, the restitution and redistribution of *waqf* resources, and the selection of religious personnel—but also political and constitutional matters of Islam, including electing representatives of Algerian Muslims and the unity of the religious authority. The bill reflected Algerian Muslims' common concern over the origin of the authority that is to be vested in local religious associations. Such political/constitutional elements in the bill caused worry among French authorities, as these elements contradict the purpose of the separation: to confine religion to matters of worship, prayer, and ceremony—thus to separate the social and political sides in order to put them under state control.

The diversity of opinions between the Mesbah bill and the Association of Algerian Muslim ʿUlamaʾ suggests that they understood differently the ultimate goals of Muslim religious institutions. Their approaches also differed over questions such as whether they prioritized moral ideals or practical considerations, and how to balance the logic of French law and Muslim legal thought. By examining these debates, this paper investigates how Muslims imagined a possible relationship between Islam and the modern state.

Respondent: Abdessamad Belhaj

Islamic Law and the State in the Gulf: The Political Work of Qāḍī ʿAbd Allāh b. Zayd Āl Maḥmūd (1911–1997)

Speaker: Alexandre Caeiro

Associate Professor at the College of Islamic Studies, Hamad Bin Khalifa University (HBKU). He was trained in sociology and in Islamic studies in France, the Netherlands, and Egypt. His research deals broadly with the transformations of Islamic law in modern contexts. He is currently working on the legal history of Gulf sheikhdoms, focusing on the interaction between emirs, shariʿa judges, merchants, and British agents in the context of the development of an oil economy and modern state institutions.

Caeiro holds a PhD in Religious Studies (Cum Laude) from Utrecht University (2011), and   MA in Sociology (Diploma in Advanced Studies; with Honors) from the École des Hautes Études en Sciences Sociales (EHESS), in Paris (2002) and a BA in Economics and Sociology (Two Subject Moderatorship; with Honors) from the Trinity College Dublin, University of Dublin (2001). Between 2009 and 2012 he was Research Fellow at the Erlangen Centre for Islam & Law in Europe (EZIRE), Friedrich–Alexander University (FAU) Erlangen–Nürnberg and Junior Research Fellow (PhD) at the International Institute for the Study of Islam in the Modern World (ISIM), University of Leiden (2004 – 2008).

Abstract

The twentieth century legal history of the Gulf sheikhdoms was characterized by jurisdictional struggles between new civil courts and Islamic legal institutions. These struggles shaped the colonial and postcolonial politics of the region, mobilizing members of the ruling families, tribal sheikhs, merchants, religious scholars, Egyptian legal advisors, and British officials. Most of the existing legal histories of the Gulf are based on British sources and adopt the perspective of the imperial reformers and their local allies. They tend to assume that civil courts constitute a modern necessity and that Islamic legal institutions are largely inadequate for the task of modern governance. In this article, I examine these assumptions by looking at the work of Qatar's chief qāḍī, ʿAbd Allāh b. Zayd Āl Maḥmūd (1911–1997), whose position at the helm of the Presidency of Sharīʿa Courts (est. 1957) straddles the colonial and postcolonial eras. Despite its centrality to Qatar's modern legal history, the work of Ibn Maḥmūd has been almost completely ignored in the relevant secondary scholarship. A recently published collection of his fatwas provides key insights into the dynamics of Islamic law in Qatar in the twentieth century. Petitioners asked Ibn Maḥmūd to comment on the social, economic and political changes taking place in Qatar in the second half of the twentieth century. These changes included sweeping cultural transformations, the development of new property regimes and financial institutions, and the growing jurisdictional authority of state institutions. The questioners empowered Ibn Maḥmūd to act as Qatar's moral and legal guardian during a critical transitional period. In his fatwas, Ibn Maḥmūd drew on the resources of the Hanbali tradition and on traveling ideas about Islamic reform to address emerging social practices and imaginaries. He engaged in a work of translation, adapting traditional Islamic legal concepts to the realities of a changing society. He guided the work of state actors and institutions as they negotiated new social realities (weakened kinship structures; women's

participation in the workforce) and economic imperatives (housing demands of divorced women; blood money for deceased employees, the terms of insurance policies). He adjusted charitable practices to the demands of an increasingly monetarized society and shaped the way state institutions adapted globalized medical practices (blood transfusions, sterilizations) to the cultural contexts of the Gulf. The case of Ibn Maḥmūd confirms that the incorporation of religious authorities into the state apparatus does not necessarily lead to their marginalization from politics. This incorporation can also enable the ulama to achieve growing prominence and influence in public life. I show how Ibn Maḥmūd was an equivocal ally of the state in its modernizing drive. Sometimes, his fatwas echo the state's regulatory ambitions, welcoming state intervention to regulate the media, prevent the sale of alcohol, set limits to dowries, or enforce the collection of zakat. Frequently, however, he resisted the intrusion of state power into private spaces of individual freedom and the domestic spheres of family life. This ambivalence, I suggest, highlights the critical potential of Islamic legal traditions in contemporary Gulf states.

Response & Discussion

Respondent: Shoko Watanabe

Public Morality Facing Modernity in Saudi Arabia: the Case of the Committee for the Promotion of Virtue and the Prevention of Vice

Speaker: Takao Kenichiro

Abstract

This paper examines how public morality based on Islam in Saudi Arabia have been formed and changed through the activities and reputations of religious police, namely, the Committee for the Promotion of Virtue and the Prevention of Vice (hereafter, CPVPV). The national ideology of Saudi Arabia, which originated in the mid-18th century, aims to form a society that reflects Islamic values. It is known by the name of Wahhabism, a strict interpretation of Islam based only on the Quran and the Prophetic Sunna. For the purpose of creating such a society, Saudi Arabia has undertaken to remove any heretical innovation from its territory. Thus, the state has aimed to maintain purity as an Islamic society.

After the establishment of the present dynasty originated in 1902, Saudi Arabia adopted the promotion of virtue and prevention of vice (hereafter, PVPV) as a way for maintaining Islamic purity in society. PVPV teachings, which originated in the Qur'an and Sunna, order Muslims to do what is imposed upon them by Islam and not to do what is prohibited. This is not only intended to encourage individuals to be good Muslims, but also to enforce these values upon other people. People need knowledge to judge whether the behaviour of others is right or wrong, and they also need power to enforce or prevent particular behaviour. Therefore, the responsibility of PVPV lies especially with those who have knowledge and power.

The CPVPV observes people's behaviour based on PVPV. Since its establishment in Mecca in 1924, the CPVPV has been policing rituals such as praying and fasting, religious bans such as drinking or black magic, and the most prominent issue, the interaction of men and women. Although there is no doubt that the policing of such issues contributed to forming the basis of Islamic society, through the 1960s and 1970s Saudi Arabia promoted states' modernisation, represented by promoting girls' education and establishing a TV station. Especially after the 1990s, with the growth of the youth population and the adoption of Western values and lifestyles, the policing activities of the CPVPV became a source of mistrust and criticism among Saudi citizens. This mistrus reached the climax after a fire in a girls' school in Mecca in 2002, when fifteen deaths occurred because the CPVPV prevented girls from leaving the building in their own clothes and prevented male firefighters from entering the building.

After 2003, when the government promoted 'tolerant and moderate Islam' under the Crown Prince Abdullah, the CPVPV's activities began to be limited. Under his reign, the government encouraged young people to study in Western countries and promoted female empowerment. This led to wide criticism of the CPVPV's policing among the citizens. In response, the CPVPV started exploring ways of reforming the agency. The reformist mood reached its peak when Abdullatif Al al-Shaykh became the new head of the CPVPV in 2012.

However, even under Abdullatif's direction, the CVPVP failed to entirely overturn its negative reputation, and he was dismissed in January 2015. His dismissal was decided shortly after the present king Salman's accession to the throne. Commentators initially speculated that the dismissal of such a moderate signalled that King Salman's reign would take the kingdom in a more religiously conservative direction. However, the measure actually made way for further social reforms. In April 2016, Muhammed ibn Salman, who after his father's accession had been appointed as the minister of defence (he then became crown prince in June 2017), introduced an economic development and reform plan titled 'Saudi Vision 2030'.

Under Saudi Vision 2030, the government introduced a succession of reforms apparently aimed at overturning conservatism in the kingdom. Examples include allowing women to drive vehicles,

allowing commercial cinemas to operate in the kingdom, allowing women to use sport and fitness facilities, and allowing music concerts. Immediately before Saudi Vision 2030 was introduced, the government announced that the CPVPV would be formally deprived of its right to arrest people and that its patrols and other investigative operations would be significantly curbed. Since then, there have been fewer CPVPV patrols in urban areas, and the agency's profile has been steadily waning.

Today, the role of policing based on PVPV has been replaced with that of secular law. This turning point came in September 2019, with the birth of 'the law of public decency'. This law was enacted alongside the government's decision to issue a tourist visa for the first time in Saudi history. On this occasion, the government apprehended the corruption of public morality in society; they wished to invite foreigners, but could not restore the CPVPV's policing. Thus, the law of public decency was born. Under this law, policing issues for maintaining public morality were transferred from CPVPV to secular police, and the basis of public morality was transferred from PVPV, a religious teaching, to a more public manner of state teaching.

As described, we can observe the transition of public morality in Saudi society through the position of the CPVPV. In other words, the position of the CPVPV as a contributor to Wahhabism, the Saudi national ideology, became an obstacle against the state's modernisation. However, the CPVPV itself was never abolished during this process. Saudi Arabia cannot completely adopt modernisation in the sense of Westernisation, while the state maintains the image of a pure Islamic society. Therefore, the government regulates the role of the CPVPV depending on individual situations. Under these circumstances, Saudi society has been experiencing the reinterpretation of Islamic values, norms, and practices through partial secularisation, which recreates the public morality of Islamic society.

Response & Discussion

Respondent: Shirin Boroomand

Enforcing public morality through public health policy: an exploration of public health ethics and Islamic ethics through tobacco control as an applied example

Speaker: Rasha Bader

Abstract

The last decades have witnessed the increasing infiltration of public policy into various spheres including health. States use various legislative, manipulative, and rational persuasion instruments to influence the individual's behavior under the umbrella of public health policy. Political, scientific, and economic factors have brought individual lifestyle and behaviors, once considered private concerns, under the realm of public morality as determinants of public health. This conflation of the public and private creates tension between the limitations that individual freedom imposes on the state's coercive power on the one hand, and the state's obligation to promote public interest that can conflict with individual freedoms on the other. It can also open doors to moralism and to imposing values and perceptions of virtue on grounds of beneficence.

Tobacco control as a public health enterprise is a classic example of this dilemma. Smoking, once perceived as a private behavior or vice, is now problematized as a threat to public health. The rich literature on the ethics of tobacco control demonstrates the various philosophical and ideological positions on the ethical tensions. As an enterprise, tobacco control is justified on grounds of public interest, social justice, and human rights. Beyond communal benefit, paternal interventions are justified on grounds of compromised rationality and agency due to the addictiveness of tobacco and the manipulation by the tobacco industry. Opponents challenge the various justifications on grounds of uncertainty of empirical evidence, infringement on autonomy and dignity, and moralism and healthism. Unfortunately, a parallel discussion from an Islamic stance has not been undertaken. The available literature is mostly concerned with the *fiqhi* ruling on (im)permissibility, but this reductionist approach lacks any ethical deliberation on the state's involvement in influencing behaviors. Fortunately, the works from the times of introducing smoking into the Muslim world provide insight into the principles, values, maxims, and frameworks at play in judging whether it is a religious or a political concern, and the state's authority to interfere.

This paper benefits from these works to develop an Islamic perspective on the state's authority to influence individual behavior under the umbrella of public health, and juxtapose that with deliberations in Western public health ethics. In terms of normativity, the paper discerns religious rulings on the (im)permissibility of tobacco from the political prohibition of smoking that bears social, political, and economic justifications. It further examines how the sources of knowledge - including scientific evidence - inform rulings and opinions, inform policies that balance public interest with preserving the individual's moral agency, and establish legal and moral obligations. It also traces stances on the values behind the individual's choice to smoke - such as health, virtue, and pleasure – and how these can invoke a political approach to deter smoking versus a virtue ethics approach. Analyzing these works taps into the Islamic literature including the discipline of *fiqh* and the genre on *siyāsa sharʿiyah* to identify values and maxims that can help establish a position on the state's authority to influence individual behavior through public health policies.

Response & Discussion

Respondent: Zahra Azhar

Discussion and concluding remarks

Abdessamad Belhaj & Mohammad Ghaly (CILE)