

Islam between Margins: Reassessing Gender and Sexuality in Islam

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Abstract

This article aims to explicate the tensions on issues of gender and sexuality that arise at the intersection of lived reality and the inherited Islamic tradition, primarily regarding but not limited to Islamic law. We do three things in this paper: we first explore the notion of an in-between space that serves as a conduit between an inherited religious tradition and the plethora of lived realities of being Muslim. Second, we provide examples of how Islam as a religious identity and faith and the prescriptions set out in Islamic law operate through this in-between space. Third, based on the above, we conclude that the pedagogy of Islam, gender, and sexuality stands to be enriched if this in-between experiential space is acknowledged as an epistemological portal to Islam.

Keywords: Muslim ethics, gender, sexuality, sexual diversity, Islamic feminism, Islamic law, Sufism

This article aims to expand the epistemological category of experience and lived realities of Muslims as constitutive of Islam and Muslim ethics.³ Such an exploration is critical in light of an increasing sense of the incommensurability between dominant clerical and textual articulations of the inherited tradition on the one hand, and the real lives of everyday Muslims, on the other. More precisely, the central question it seeks to answer is how Islam is produced, constructed, and assembled by Muslims in relation to their experience of gender and sexuality. Both the Qur'an, as the word of the divine transcendent made material through rhetoric and the Hadith, as the corpus of narrations that provide details of the life, sentiments, and instructions of the Prophet Muhammad and the nascent community of believers, are in the contemporary period, increasingly viewed through the regulatory framework engendered by Islamic law. These discourses often, but not entirely or consistently, centre narrow

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³ For a detailed theoretical discussion on experience, epistemology and gender in Muslim tradition, see Sa'diyya Shaikh, "Feminism, Epistemology and Experience: Critically (En)gendering the Study of Islam." *Journal for Islamic Studies* 33 (2013): 14-47.

ways of reading religious scriptural texts (the Qur'an and Hadith)⁴ and/or the legal tradition as foundational and adequate in explaining or justifying a particular point of view. Islam and being Muslim – a historical and civilizational fact and a phenomenological as well as a socio-historical experience of identity – is reduced to a necessary alignment with particular readings of scripture, Islamic law, or dominant notions of the inherited tradition in some substantial ways. Such a perspective is ultimately limiting in understanding and appreciating the relationship between the lived realities of Muslims, the complexity of Muslim societies, and how the law is constructed, negotiated, and subverted (a point made in varying ways by some Muslim feminist and queer scholars). It is not our aim to furnish a comprehensive exposition of Islamic law or provide a final solution to the problem, but rather to attempt to state the terms of the problem as clearly and explicitly as we can.

We first explore the notion of a phenomenological embodied in-between space that serves as a conduit between an inherited religious tradition (primarily focusing on Islamic law)⁵ and the lived reality or experience of being Muslim. After outlining the terrain of this theoretical process, we proceed to provide examples of how Islam operates in this in-between space as a religious identity and faith in tandem with the prescriptions set out in Islamic law. The range of examples in this section demonstrates the forms of complex negotiation and messiness of Muslim existentiality and the inherited Islamic tradition. Finally, based on the above, we conclude that the pedagogy of Islam, gender, and sexuality stands to be enriched if this in-between space is explicitly recognised and confidently embraced

⁴ The Qur'an and Hadith, for the vast majority of Muslims and within the orthodox Islamic intellectual tradition, hold important places as foundational scriptural sources. The Qur'an is considered by Muslims as the literal word of God that was revealed to the Prophet Muhammad over the period of his prophetic mission. These revelations are recited as part of worship, and scholars have interpreted its words for generations with a view to give meaning to Muslim belief and life. The words of the Qur'an also have other uses in Muslim societies where they are invoked for blessings, form part of Islamic aesthetics and also used as talismans in some instances. The Hadith is a collection of reports that were compiled after the death of the Prophet Muhammad that contain information concerning the speech and acts of the Prophet Muhammad and the occurrences that transpired during and around the Prophet Muhammad. While the authenticity of the Qur'an is generally considered divine and beyond dispute, the corpus of Hadith literature is subject to more scrutiny in respect of which reports are considered authentic and which reports are sufficient to be used as a basis for legal rulings. In the Islamic legal tradition, the Qur'an and Hadith are deemed both essential and foundational as sources of law.

⁵ Our argument can potentially be extended to other aspects of the Islamic intellectual tradition, all of which are interested or involved in the ethical or the way of appropriate ethical comportment. However, in this paper, for purposes of convenience and brevity we limit ourselves for the most part to Islamic law and religious scripture insofar as it is used to forge a regulatory and/or ethical framework to make our argument.

as an epistemological ground for understanding Islam. One of the aims of this exercise is to demonstrate that understanding the scope and import of the Islamic governing framework in relation to Muslim lives can only be achieved through an investigation that gives prominence to the way in which Muslims receive, follow, adapt, construct, subvert, and reconstitute the inherited Islamic tradition – scripture, law, theology, and aesthetics – in relation to each other as Muslims.

Life and Law: Never the Twain Shall Meet?

Shahab Ahmed's masterful, if controversial, account of what constitutes Islam and Islamic identity contests the view that Islamic law comprises the essence or the central feature of what it means to be Islamic or Islam. Ahmed provides an expansive historical archive of alternative expressions of Islam or being Muslim that historically stood in contradiction to the tenets of Islamic law, yet were not considered to be outside the bounds of Islam.⁶ On the contrary, he has provided compelling evidence for the claim that historically, the law was but one amidst a number of hermeneutical trajectories of Muslim ethical meaning-making and truth-making. In effect, Ahmed's consternation is that for Orientalists and modern Muslims, ethics or the "rational procedure by which we determine what individual human beings 'ought' – or what is 'right' for them – to do, or to seek to realise by voluntary action,"⁷ "is law – and is not philosophy, Sufism, or poetic and narrative fiction."⁸ This centralisation of Islamic law as the quintessential kernel of Islam, as Ahmed has pointed out, is not a new phenomenon. Both Orientalists and modern Muslims including Islamists venture that genuine Islam is manifested through its legal orthodoxy.⁹ A problematic consequence in this regard is that for many people the primary, if not

⁶ Shahab Ahmad, *What is Islam? The Importance of Being Islamic*. Princeton: Princeton University Press (2016), 117-29.

⁷ Henry Sidgwick, *The Methods of Ethics*. London: Macmillan (1967), 1.

⁸ Ahmad, "What is Islam," 126.

⁹ Ahmed, "What is Islam," 125, notes this ascendancy of the law is in no small part the consequence of modernity where the nation state has been established as a legally comprised entity, rendering law "the leitmotif of the modern human condition in a manner and degree unprecedented in any prior period of history." The combined effort of colonial and Muslim elites in codifying Islamic law particularly in respect of personal status, such as family law, was exceptional in Islamic history. This has rendered the intersection of Islamic law and issues pertaining to gender and sexuality – as components of personal and family law – particularly sensitive to the discourse on Islam, modernity, and traditionalism. See Dietrich Jung, *Orientalists, Islamists and the Global Sphere: A Genealogy of the Modern Essentialist Image of Islam*. Sheffield: Equinox (2011); Scott Kugle, "Framed, Blamed and Renamed: The Recasting of Islamic Jurisprudence in Colonial South Asia," *Modern Asian Studies* 35 no. 2 (2001): 257-313; and Allan Christelow, *Muslim Law Courts and the French Colonial State in Algeria*. Princeton: Princeton University Press (1985).

exclusive, site for legitimate discussion or attempts at imagining a different future, or thinking of Islam historically *vis-à-vis* gender and sexuality must cut through the normative Islamic tradition which often focuses disproportionately on scriptural sources and/or Islamic law.¹⁰ These sentiments assume that Islamic law – and its invocation of scriptural sources – originate from a foundation of rightful authority, or in other words that the law represents the closest index of God’s instruction for human life even if the participants to this discussion do not agree on the precise details of that instruction. This is not the issue for us in this article. At this juncture we will forego that the imperatives of the law play a crucial role in regulating the lives of Muslims in some way or another. The more important concern for us is to examine the boundaries and limits of Islamic law’s authority, or to phrase it differently as a question: where does the coercive nature of the law or any normative systematised Islamic ethical framework – as represented by the historical community of elite male jurists – begin fusing or melting away into the lives of Muslims who negotiate Muslimness and Islam in less systematic and more creative ways?

¹⁰ “Even if such [Qur’anic] readings do not succeed in affecting radical change in Muslim societies, it is safe to say that no meaningful change can occur in these societies that does not derive its legitimacy from the Qur’an’s teachings, a lesson secular Muslims are everywhere having to learn to their own detriment” (Asma Barlas, *Believing Women’ in Islam: Unreading Patriarchal Interpretations of the Qur’an*. Austin, TX: University of Texas Press [2002], 3). See also Deniz Kandiyoti, “Islam, Modernity and the Politics of Gender,” in *Islam and Modernity: Key Issues and Debates* edited by Muhammad Khalid Masud (Edinburg: Edinburg University Press, 2009), 93. Some feminist scholars may not directly deal with Islamic law. However, their rich and important engagement with scriptural sources such as the Qur’an and Hadith is undertaken in a way that has direct legal and public implications and deliberately so. For example, offering interpretations that reject and undermine patriarchal notions of male ownership and control has a clear impact on personal status in matters relating to both social relations and the representation of religious authority – marriage, mental capacity, bodily integrity and safety, inheritance, equal opportunity, female leadership, etc. All of these issues pertain directly to reforming or influencing a normative public regulatory framework and are not simply concerned with the private, apolitical practice of Islam. Many feminist scholars intentionally participate in public venues in the form of memberships to groups or to engage in activism for legal reform or social change. It is also mistaken to view Islamic law as only having this overt public regulatory function which governs the external (*forum externum*). Islamic law also has a dimension which is focused on the personal moral and ethical domain or the sphere of conscience. In large part, one reading of the law is that it is a project that has as its aim the regulation of human behaviour in accordance with God’s instruction so as to discipline the human subject and to refine and purify her/his conscience or moral sensibility (*forum internum*) (Baber Johansen, *Contingency in a Sacred Law: Legal and Ethical Norms in the Muslim Fiqh*. Leiden: Brill, [1999], 36). This is also an aim of Muslim and queer feminists to the extent that gender discrimination and discrimination on the basis of sexual orientation is an affront to any legitimate and divinely sanctioned moral sensibility.

In some ways the reach of Islamic law is seen to be pervasive. All actions are to be adjudicated by the *ulama*¹¹ in terms of Islamic law as permissible, prohibited, recommended, or reprehensible with scriptural and/or legal support. However, Sherman Jackson argues for a limit to the jurisdiction of Islamic law by carving out a space he terms the “Islamic secular.” The Islamic secular is the realm where the sources of Islamic law are either silent or cannot be extended to provide a ruling on what ought to be the right way of dealing with particular things such as monetary or medical policies, immigration, and other such matters. In these instances, rule-making and ethics “transcend questions of permissible and impermissible”¹² and any conclusions are based on empirical information from which *ulama*, insofar as they are unqualified to pronounce on such matters, are barred from making a pronouncement on. Jackson’s formulation of the Islamic secular is possibly common sense for some. However, Jackson’s argument is provincial in construing the edges of Islamic law as existing *only* on the borders of what he terms the Islamic secular. Indeed, we suggest that in fact the edges of the law are also intertwined with the very people for whom the law is supposedly serving or controlling (depending on how you view the situation). The limit of the law or legal invocations of the Qur’an or the Hadith or Islamicate customary practices is at the threshold of the individual who makes a determination on how to engage with that inherited tradition and whether or not to extend its authority into her/his life. The individual’s capacity to make such determinations is also clearly shaped by and is responsive to the complexities of his/her social and political location. In most contemporary contexts, Islamic law cannot practically, categorically, and comprehensively pronounce and enforce the commission or omission of acts. It is usually the state apparatus or the bonds of a socially constituted community that extend the authority of the inherited tradition in its own way towards the individuals who constitute the citizenry of that state or the members of that community. In turn, the individuals themselves elect to abide by, subvert, or ignore any part of the inherited tradition for reasons that may not be immediately coherent.

A central issue is the dynamic interrelationships between the individual and the social at the level of ethics and law as these are mediated within specific contexts. The law is a corpus of juridical opinions extended through time as both a discursive tradition and an inherited tradition of

¹¹ The term *ulama* literally means scholars or learned ones. Technically it is a term that is used to refer to a class of Muslim clerics who act as representatives of, or at least part of, the Islamic intellectual tradition, and who claim or are granted the authority to transmit and interpret the tradition.

¹² Sherman Jackson, “The Islamic Secular,” *The American Journal of Islamic Social Sciences* 34, no. 2 (Spring 2017): 20.

Muslim aspiration accessed through the experience of the Muslim subject individually via its social environment. Incisively illuminating the intimate relationship between sociality and individuality, the German sociologist, Norbert Elias, states that “each individual person, different as he or she may be from all others, has a specific make-up that he or she shares with other members of his or her society. This make-up, the social habitus of individuals, forms, as it were, the soil from which the personal characteristics grow, through which an individual differs from other members of their society.”¹³ The dynamics of a social habitus as suggested by Elias are crucial when considering the preservation and continuation of Islamic law that extends from the varied realm of worship to many dimensions of sociality and social relations. One example is how ritual in all its specificities (e.g. the performance of daily prayers; or how congregational prayers are properly constituted; or the way of fasting correctly; or the actions and timing which make-up the pilgrimage to Mecca, etc.) are all retained and birthed to the next generation through a pedagogy that is first and foremost inscribed into the social relations of a community.

To explain it differently, we can use the example of the Qur’an and the various potential interpretations the text yields. The importance of the Qur’an – as a recitation in and outside of canonical prayer, a form of aesthetic beatification, a symbol of God’s direct intervention into the mundane and material world – is passed down through an inherited tradition that is texturally a component of how the social relations of a Muslim are constructed. At the same time, the individual Muslim’s interaction with the Qur’an as a site of religious devotion and meaning is both a continuation of the triangulation of tradition, social habitus, and identity, as well as a germination of a way of being with the Qur’an that is unique to her/his experience of the world. In referring to the capacity of infinite meaning which the Qur’an contains for believers, the medieval polymath, Ibn Arabi, says, “for He who sent it down knows all those senses without exception. He knows that His servants are disparate in their consideration of those words...hence, when someone understands a sense from the verse, that sense is intended by God in this verse in the case of the person who finds it.”¹⁴ Amongst other things, these reflections on the polyvalent layers of Qur’anic meaning point to first, the centrality of the socially embedded and subjective reader who interprets Qur’an, and second, the intentional and purposive elasticity inherent in and definitive of the hermeneutical encounter with the Qur’an. Indeed, society and

¹³ Norbert Elias, *The Society of Individuals*. Oxford: Blackwell (1991), 182.

¹⁴ William Chittick, *The Sufi Path of Knowledge: Ibn Arabi’s Metaphysics of Imagination*. Albany: SUNY Press (1989), 244.

individuals within that society as religious subjects actively and varyingly engage with the tradition, including areas of Islamic law and/or the Qur'an. People inherit a tradition but also consistently discover/create meaning in the tradition through their individuality and their peculiar social imaginaries. In this way, the contextually located individual is simultaneously the locus of mediation and meaning-making between God, the inherited tradition, and the social habitus. Cantwell Smith's simple yet critical observation that each believer is an integral participant and contributor to the nature of an unfolding living tradition, has enduring importance as we turn our attention to the ways that contemporary Muslims varyingly live with and in relation to the tradition of Islam.¹⁵ This brings to bear the importance of human experiences emerging in diverse historical and social contexts as the crucible of religious meaning-making.

In a contemporary study of gender and Qur'anic ethics in South Africa, Sa'diyya Shaikh illustrates precisely this primacy of lived experiences as constituting the social world of the Qur'anic text which reflects "an arena of engaged, dynamic and polysemic encounters."¹⁶ These contours of embodied, ambivalent and sometimes fraught existential grappling with religious meaning and ethics is what she theorises as a "Tafsir of Praxis." As such, she expands the traditional notion of Qur'anic exegesis (*tafsir*) which is historically the forte of elite (largely male) scholars to include what might be described as everyday truth-making in the lives of ordinary Muslim women. She demonstrates the pervasive impact of social and personal lived experiences as powerfully inflecting religious ethics and informing understandings of the Qur'an. This is the case, she argues, even in supposedly dispassionate, scholarly, primarily male *tafsir* literature. As such, this study helps to render visible the reality that lived experience is and has been central to an epistemology in both premodern and contemporary contexts. Consequently, the law and legal readings of the Qur'an, as these have been fashioned and conveyed by the *ulama* – themselves equally a loci of productive existential engagement – are not separate or unaffected in substance by the way in which lay Muslims have crafted and continue to shape their lives.

¹⁵ Smith states that "[e]very religious person is the locus of an interaction between the transcendent, which is presumably the same for every man [sic]...and the cumulative tradition, which is different for every man." (*The Meaning and End of Religion: A New Approach to the Religious Traditions of Mankind*. New York: Mentor Books [1962], 168).

¹⁶ Sa'diyya Shaikh, "A Tafsir of Praxis: Gender, Marital Violence, and Resistance in a South African Muslim Community," in *Violence Against Women in Contemporary World Religions: Roots and Cures*, edited by Dan Maguire and Sa'diyya Shaikh. Ohio: The Pilgrim Press (2007), 89.

Accordingly, a productive but often unrecognised crucible at the nexus of the inherited tradition/law and everyday life is located within the individual. There is a deep theoretical resonance between Shaikh's "Tafsir of Praxis" and the work of Catholic theologian, Terry Veling, who provides a methodology by which experiences of those outside scholarly elites or authorities can be productively utilised to produce and extend meaning through a critical and receptive engagement with the tradition on the "margins." For Veling, marginality in this context acts as a conduit – an in-betweenness and not as a signifier of an outsider – that connects intentional Christian communities or communities of Christian believers who have adopted a critical distance from the mainstream of Christian life. The pertinence of marginality as signifying connection rather than exclusion cannot be overstated. In the same way that the marginalia found in books function as an intellectual connection between the actual text and an individual or community linked to the text, so does this "marginal" space. It is that space where the believer scrawls, comments, annotates, critiques, and even illuminates the tradition that she/he is engaging with. Without the marginalia, a text is not dynamic. Without the "marginal" space, a tradition dies and becomes fossilised.

Veling theorises marginal space as

the gap in which hermeneutics begins, and ends...It begins in the recognition that there is a gap between our tradition and our lives. What is a gap, except perhaps a space – a blank space, a space like that of the margin? A blank space represents a lack or an absence, yet it also represents a hunger or a search. It is as much about what is missing and excluded as it is about the hope or vision for what it could be, for new possibility. My sense is that intentional communities are living in this gap, this marginal space, along the edges of Christian tradition: a tradition in which they feel themselves both radically immersed and disturbingly alienated. They live both inside and outside of a religious tradition that both provokes their existence as possibility and haunts their existence as nonpossibility.¹⁷

For Veling, the gap between life and tradition is where the most creative action takes place. It is a space of deliberate non-alignment with the inherited tradition so that the tradition can be renewed and rewritten in ways that are both "similar and different to itself." It is the space that exists at the locus where law and life merge so that it can both recognise the written, the familiar, the recognised names, and at the same time perceive

¹⁷ Terry Veling, *Living in the Margins: Intentional Communities and the Art of Interpretation*. New York: Crossroad Herder (1996), 202-3.

the unwritten, the strange, and the unnamed. This marginal space is where Muslims reside as individuals engaging and negotiating their faith, their tradition, and the world they inhabit.

Perhaps a reclamation and conscious ownership of these marginal spaces might open up more capacious modes of engagement. We might even think of such marginality as offering Muslims a space of wonder in the way that the feminist French philosopher, Luce Irigaray, describes that ideal intimate meeting of two sexually different lovers where intimacy does not require complete knowledge or subordination or the avoidance of conflict, but rather a continuously renewed sense of wonder. Such a sense of wonder, she suggests, enables one to appreciate sexual difference for what it is from a position that sits tremulously between unification – or alignment – of the parties and the complete unknowability or a divorce of the parties. The person is neither completely the same as her partner nor is she so apart that she cannot hold that liminal/marginal space of wonder as a valuable space of love and creativity that merges with the porous boundaries of herself and her partner. It is a space where engagement – irrespective of whether it is critical or receptive – is born out of love and wonder.¹⁸

Embracing marginal spaces as a site of love, wonder and discovery – a site that can hold complex forms of relationality between an embedded and unique religious subject and the inherited tradition – creates the possibilities for a dynamic unfolding of more generous modes of being Muslim. Theorising spaces through which Muslims live their Islam, spaces that are complex, varyingly negotiated, often contradictory, at times painful, and sometimes wondrous, is also closest to the actual ways that Muslims operate in the real world. It is resonant with Ahmed's view that a rigorous theorisation of the tradition needs to fully account for the reality that Islam constitutes "points, terms and frames of reference, it is the components of a complex of relationality by which the actor/subject orients or constitutes her Self in and by an environment of other things...(it implies entering) into a discourse of meaning and action that is (in itself) constitutive of Islam."¹⁹ This is a space of perpetual Muslim becoming, where Muslimness is forged in the blazing fire as well as the refreshing garden of engaging with the inherited tradition and at the same time, negotiating and creating what that tradition means.

¹⁸ Luce Irigaray, *An Ethics of Sexual Difference*. Ithaca NY: Cornell University Press (1993), 20.

¹⁹ Ahmad, "What is Islam," 325.

Such an embodied negotiation of existential meaning-making must grapple with questions of what tradition meant in the past, what it means in the present, and what it ought to mean in the future. If this space is depleted of love and wonder – love for all those who make it possible to be Muslim in community with others who engage in the same tradition; and a genuine sense of wonder to allow for the unexpected manifestation of a novel way of being Muslim in relation to the inherited tradition – then it becomes parched and constricted.

A lack of love and wonder for the fullness of self/other diminishes spaces of meaning-making and constrains paths to developing a Muslim subjectivity born out of a genuine commitment to an engaged and nourishing tradition. It also more easily engenders conflict and authoritarianism. The vitality of the inherited tradition is contingent upon the vigour of this marginal space to enable ever renewed and reconstituted forms of being Muslim by way of an engaged striving for embodying the ethical and the ever more beautiful.²⁰

In a beautiful story found in the *Mathnawi*, the thirteenth-century Sufi Jalal ad-Din Muhammad Rumi poignantly prods his readers to be alert to unexpected, unique forms of human nature and relationship to the divine. In this story, the Prophet Moses is disconcerted when he overhears a shepherd calling out to God in the following way:

“Where are You? – so I can become Your servant, and mend Your sandals and comb Your head. (So) I can wash Your robe, kill Your lice, (and) bring milk in front of You, O Great (Lord). (So) I can kiss Your small

²⁰ As Muslims who grapple with, engage, and embody tradition varyingly, we are particularly inspired by two hadith when thinking of wonder, discovery, love, and beauty within Islam, where the divine purportedly said/says, “I was a Hidden treasure and I loved to be known so I created the world in order that I might be known,” and “God is beautiful and loves beauty.” We are also inspired by those beautiful interactions with tradition that present a yearning but also an interactive engagement with religious tradition and/or God and of the beautiful intimacy that exists between the believer and God in the Sufi poetry tradition. As rendered in the story by Kharraqani of an emotional experience when he heard a voice from beyond saying, “Do you want Me to tell people everything I know about you, so that they stone you?” to which he responds, “O my God! Do you want me to tell them everything I know about your loving mercy and forgiveness, everything I see from your generosity? If I do, no one would ever bother with acts of worship, no one would prostrate in prayer!” God answers back: “*You say nothing; I say nothing.*” This to and fro is also present in supplications and the poetical tradition (Omid Safi, *Radical Love: Teachings from the Islamic Mystical Tradition*. New Haven & London: Yale University Press [2018], 63). An example is Muhammad Iqbal’s poem *Shikwa / Jawab* which is a complaint from the believer to God about the decrepit state of Muslims and a hopeful response from God (Muhammad Iqbal, *Shikwa and Jawab-i-Shikwa [Complaint and Answer]*, translated by Khushwant Singh. New Delhi: Oxford University Press [1991]). In these examples, the beauty in *engaging* through affect and a person’s intimate involvement with life is deeply connected to religious experience.

hand, massage Your small foot, and sweep Your little (dwelling) place
(when) the time for sleep comes. All my goats are a sacrifice for You.
(And all) my (shouts of) 'Hey!' and 'Ho!' are in remembrance of You.”

Moses incensed at what appears to him a crude and disrespectful form of addressing God, sharply rebukes the shepherd, who becomes ashamed for his manner of speaking to God and falls silent. God comes forth and takes Moses to task for his blindness and arrogance, for not being able to appreciate that human beings express love, worship, and yearning for God in a variety of ways. This tender tale offers a view of Islam that where human beings, despite their diversity in outer form or religious expression, are each fully seen and held intimately in the divine gaze. Furthermore, Moses is chided for separating the shepherd from God for “[t]he most hateful of (lawful) things to Me is divorce.”²¹ Here, Rumi recasts a hadith that in the Islamic tradition usually refers to the divorce of spouses as relevant to a person in religious authority, a prophet no less, who separates a believer from God because his words do not meet the requirement of normative practice. This story urges an awareness and recognition of the unfolding, unexpected, and plural ways of being and becoming Muslim. It also nudges believers to embrace an epistemological humility characterised by an awareness that each apprehension or understanding also simultaneously contains the seed of unknowing. Moreover, it reveals that each expression of faith, longing, love, and surrender is unique and cannot always be moulded to fit a specific normative/orthodox code of praxis without detracting from the existential affectivity and fullness of that expression.

We now expand our exploration of the embodied spaces of Muslim becoming, presenting a few empirical examples of contested sites of negotiation and meaning-making within Muslim communities. These sites display the capacity to hold a teeming multiplicity of life-worlds that co-exist even as they might jostle ambivalently against one another. In essence, these spaces of Muslim-cum-Islam (if somewhat idiosyncratically selected), combine the deep historical roots of the tradition and the complexity of being Muslim in the world within a variety of contexts and periods.

Tradition, Affect and Being Muslim

The first example helps us to illustrate how people who might be committed to a specific conservative ideal of Islamic morality and gender

²¹ Jalal ad-Din Muhammad Rumi, *Mathnawi*, translated by Reynold Nicholson. London: Luzac (1945). This parable appears in Book II, 1720-1796.

simultaneously adapt it to meet the modern demands of education for women. In Sabah Mahmood's monograph on the female piety movement in Egypt, Mahmood argues that agency and freedom need to be untethered from their Western enlightenment configurations and understood within the framework of persuasive religious discursive traditions, social pedagogies and a type of virtue ethics where religious law seems at first glance to be sufficient for the disciplining of human behaviour and the cultivation of a moral sensibility. On closer inspection, the women in the piety movement are assessing and analysing a collection of Islamic traditional exhortations on the propriety of proper female conduct with a view to negotiating how to make their findings from this exercise intelligible for their present.²² In one instance, the women provide an explanation of why, through necessity, women are permitted to attend coeducational institutions to obtain an equal education to that of men despite the prohibition on intermingling between men and women.²³ Such an explanation would not necessarily be considered acceptable by other conservative Muslims, in part because of a recourse to imbibing an understanding of tradition based in those premodern societies where educational institutions were for the most part lacking the presence of women. Despite the results of the reasoning exercise of the women in the piety movement showing far more conformity with conservative and neo-traditional practices and beliefs than with any liberal idea of gender equality, it still remains a site of negotiation and contestation between the women and the inherited tradition, and between the women themselves on what it means to be Muslim in relation to dominant patriarchal iterations of tradition. In this case, the women through their own process of placing value on certain social acts, such as tertiary education, suspend the rule prohibiting the intermingling of men and women. The value of education overrides the value placed in an alleged categorical prohibition of men and women fraternising in an open environment.

A second example of a site that holds productive and ambivalent forms of negotiating plural religious identity can be found in the ethnographic study of a constellation of sacred shrines called Husain Tekri in North India by Carla Bellamy in the 2000s. Husain Tekri consists of a number of shrines dedicated to members of the Prophet Muhammad's family that have an evidently Shi'i aesthetic and cluster of rituals that are performed in this space. In Bellamy's ethnography, she relates the stories of four women who have a relationship with the shrines. One such woman is Priya, a young woman from a Hindu family, who visits the shrines often and

²² Sabah Mahmood, *Politics of Piety: The Islamic Revival and the Feminist Subject*. Princeton: Princeton University Press (2005),

²³ Sabah Mahmood, "Politics of Piety," 101-5.

experiences ecstatic states through the power of the people to whom the shrines are dedicated by which malevolent forces within her are exorcised. Through this relationship with the power of the shrines, Priya begins to recite the litanies that groups of Shi'i women perform. She begins to also perform the Islamic ritual prayer (*salah*). Finally, through a series of dreams which she, her mother, and another Hindu woman experience in which Priya is seen veiled, Priya understands this as a sign that she should adopt the wearing of a *burqa* (an all-enveloping outer garment worn by Muslim women in South Asia). In adorning the *burqa*, Priya feels comfortable, free and protected.²⁴ The *burqa* provides Priya with all the things that neo-traditional *ulama* explicitly state it should. However, Priya's adoption of these overt Islamic markers do not come through the efforts of the *ulama* or through a direct and considered adoption of orthodox Islamic religious beliefs and practices. She occupies a position within South Asian society where an inherited tradition of Islamicate culture is overt and her negotiation with a part of this culture – the ritualistic and performative expressions surrounding shrines – is the channel through which Priya's relationship to these shrines manifests through orthodox expressions of Muslim femininity. The law is overtly absent but the ways in which the law inscribed itself on South Asian culture travelled through a Hindu woman's experience of saintly power at a site that would be considered anything but orthodox. In other words, the belief and actions of Muslims – and here Priya embodies Muslimness without any formal conversion – in relation to each other in many ways also transcend the law's assertions on what is permissible and prohibited even if those actions result in compliance with the law, but through methods not grounded in the Islamic legal language of obligatory duties and discipline, and eluding definitive boundaries of religious inclusion and/or exclusion.

Another somewhat different series of historical examples relate to sexual proprietary. The first of these is of Ottoman Aleppo and the manner in which the judicial and legal system and the population subverted the letter of the law through adopting social and legal recourses to sexual indiscretions or illegal sexual acts that did not punish offenders harshly and also tolerated certain behaviours that are normatively considered both sinful and illegal by either issuing fines or turning a blind eye towards sexual indiscretions. In her study of court records in Ottoman Aleppo, Elyse Semerdjian shows that in some instances, resort to the law for illicit sexual indiscretions was avoided altogether when members of a neighbourhood came together to persuade or more firmly eject a person from the locale. Semerdjian demonstrates that not only did the above

²⁴ Carla Bellamy, *The Powerful Ephemeral: Everyday Healing in an Ambiguously Islamic Space*. Berkely: University of California Press (2011), 70-84.

scenarios pertain, but that the prevailing legal system was more sensitive of local practices than it was of the legal positions espoused by jurists. Prostitution was tolerated, or women involved in offering sexual services were relocated from the quarter in which a complaint was made regarding their behaviour. In essence, the juristic punishments for adultery, fornication, and sodomy were never meted out and it seems that both the system of governance and the community ethos supported a regime that enabled such a structure to exist without either detracting from their Muslim identity or commitment to Islam.²⁵ In this instance, the choice was not between a rejection of the law or an acceptance of it, but rather of a way to tread a path that is both committed to a particular Islamic idea of sexual morality while at the same time ensuring that any infringements warranted mere symbolic punishments or casting a blind eye towards the practice.

In terms of varied notions of sexual propriety, another example relates to the presence and accommodation of homoerotic love, same-sex sexual conduct, and erotic desires in premodern Muslim societies despite the legal prohibition and punishment of such conduct. The existence of homoerotic poetry and writings on same-sex love point to socio-cultural environments where Muslims elected to adopt an approach to forms of sexuality and/or sexual expression that were categorically condemned as both sinful and illegal in Islamic law, is significant.²⁶ The historical record suggests that simply holding the view that Islam does not recognise same-sex sexuality as a legitimate form of erotic expression is incomplete without also at the same time recognising how premodern Muslims interacted with that legal rule. To speak of Islam and same-sex sexuality in oppositional and blunt terms avoids the necessary nuance and complexity that is required to navigate a terrain that has become highly politicised and aggressive to the detriment of contemporary LGBTIQ Muslims. A failure to selectively engage with the Muslim communities of the past in how they dealt with sexual diversity ignores a part of the tradition that may be helpful in addressing similar issues today, perhaps with more love and wonder than is usually afforded to those marginalised by the tradition.

²⁵ Elyse Semerdjian, *Off the Straight path: Illicit Sex, Law, and Community in Ottoman Aleppo*. Syracuse: Syracuse University Press (2008).

²⁶ See for example Walter G. Andrews and Mehmet Kalpakli. *The Age of Beloveds: Love and the Beloved in Early-Modern Ottoman and European Culture and Society*. Durham: Duke University Press (2005); Khaled El Rouayheb, *Before Homosexuality in the Arab-Islamic World, 1500–1800*. Chicago: Chicago University Press (2009); and Ruth Vanita and Saleem Kidwai, *Same-Sex Love in India*, New York: Palgrave (2001).

A final example illustrating similar themes is found in the history of South Asian Muslim societies in which there was social acceptance and even celebration of the presence of Muslim courtesans.²⁷ These women were generally well-established purveyors of sophisticated art and entertainment and played an important role in the cultural life of the elite. Notwithstanding that their professional and artistic pursuits were considered illegitimate according to Islamic law, Muslim courtesans did not relinquish their faith or were not considered outside the pale of Islam. In fact, some contributed to religious causes such as mosque projects and had as parts of their legendary singing and musical repertoire songs in praise of God and the Prophet.²⁸ The formal Islamic legal system thus can be seen as one amongst other trajectories of living religiously and ethically in this context. These people were able to both show deference to the law and at the same time carve out an ethical way of being Muslim that did not foreground or abide by dominant legal discourses.

A Way Forward: Islam Through and Between Muslims Lives

²⁷ Katherine Butler Schoffield (April 2012). "The Courtesan Tale: Female Musicians and Dancers in Mughal Historical Chronicles, c.1556–1748." *Gender & History* 24 no. 1 (2012): 150-171. For a detailed biography of a Muslim courtesan and her poetry in a Muslim princely court see Scott Kugle, *When Sun Meets Moon: Gender, Eros, and Ecstasy in Urdu Poetry*. Chapel Hill: University of North Carolina Press (2016).

²⁸ An example is an Urdu poem by the late nineteenth century courtesan Badi Malka Jaan in pre-partition India:

*Banaya Haamilaane arsh ne maidan nabuwwat ka
Bichaya aks xaat-e-haq ne usmein farsh kudrat ka
Hue juzwe badan sab paak seele ashq-e-furqat se
Ke aalam abr-e- rahmat ka hua chashmaane ummath ka
Ajab hikmath se khaake laamakaan bunyaad mein daali
Banaya jab khuda ke qasd ne aiwaan risaalath ka
Nigaah-e-lutf se malika ki jaanib aap agar dekhein
Rahe nazzaare phir mohtaaj kyun chashm-e-inaayat ka*

When the leader of the skies decided to send His last Prophet to this world, He decided to send someone who was a reflection of His own image. Every particle of this Prophet's body was washed in the holy stream of God's grace. He was sent as a symbol of His grace and mercy to the world, so that His followers could get a new vision. If such an epitome of mercy and forgiveness casts a glance on Malka, all her sins would be washed away and she would be blessed. She would no longer depend on anyone else's grace thereafter. (Vikram Sampath, *My Name is Gauhar Jaan: The Life and Times of a Musician*. New Delhi: Rupa, [2012], 288). This example has also been captured in celluloid. In the film, *Jaanisaar*, directed by Muzaffar Ali, the Muslim courtesans of Lucknow shut their bungalows during Muharram when they commemorated the martyrdom of the Prophet's grandson, Hussain, by reciting eulogies and halting their services and the provision of alcohol.

These incommensurate states or spaces of tension between lived reality and the law are productive spaces. They enable ways of being Muslim that are both committed to the heritage of Islam and at the same time suspicious, at times implicitly so, of the way in which the law and/or some constellation of normative Islamic practices is reified as the sole or most authoritative manifestation of the divine presence in the world. The insular but not uncommon view is that Islamic law which is framed as the most authoritative part of the tradition, which is constituted and dominated almost exclusively by heterosexual men, past and present. This view negates the complexity and diversity of the marginal space – the engagement, negotiation, and human endeavour in attempting to understand the divine presence – that is central to both historical Muslim existence and our current attempts at being Muslim. To seek complete commensurability between a constricted view of the inherited tradition and its contemporary interpretations by a select group of people – be they single gendered, or exclusively of a certain economic class or sect – is redolent of an impoverished approach to the richness of both the tradition and Muslim lives, and the interaction between the two. It is our view that Islamic pedagogy has to be candid about both these aspects of how Islam and Muslimness function in tandem but not necessarily in alignment with each other. If anything, the Muslim feminist and Muslim queer project is a concrete concerted effort at working with tradition from a specific vantage point because walking away is not an option nor a desire for many involved in the project. However, in doing so, it is important to shift away from centralising the trappings of the legal tradition and narrow legal readings of scriptural texts. When creating, imagining, and embodying the realm of the ethical, it is imperative to look more closely at the lives of Muslim becoming and negotiation as a portal from which to access the tradition. This process enables a deeper confidence and capacity to maintain a posture of irresolution, or to suspend the desire for decisive forms of knowing if no alignment can be found between Muslims, or between our lives and the tradition, or between our present and our past. An approach that centres the marginal space, that finds Muslim lives as important in interpreting tradition, opens up an opportunity for “sitting in difference,” a location which Muslim feminist scholar, Fatima Seedat, astutely conceptualises as one that “relieves us of the pressure to take a side or find agreement; it recognizes there is value in difference and in a commitment to knowing and working in difference.”²⁹ Perhaps we might sit in difference, embracing love and wonder, and open to forms of knowing yet to emerge – forms of knowing that invite in ever more ethically

²⁹ Fatima Seedat, “Sitting in Difference: Queering the Study of Islam,” *Journal of Feminist Studies in Religion* 34 no. 1 (2018): 149-54.

refined and beautiful ways of relating to the world and the communities we inhabit.

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