The Status of Non-Muslims in Sharīʿa’

The Al-Mahdi Institute’s 4th Annual Contemporary Fiqhi Issues Workshop

2nd – 3rd June 2016
The Status of Non-Muslims in Sharīʿa’

Contributors Workshop
2nd – 3rd June, Birmingham

Convenor: Dr Ali-Reza Bhojani
Al- Mahdi Institute
60 Weoley Park Road, Birmingham, B29 6RB
In recent years one of the major aspects of Sharīʿa, or more precisely “fiqh”, that has been subject of much debate and discussion pertains to the status of non-Muslims within Sharīʿa.

Apparent tensions have arisen in the understanding and practice of fiqh in the context of challenges from international law, extremist trans-national and terrorist organisations, domestic legal frameworks and the private practice of Muslims living in an increasingly interconnected and globalized world. From private issues related to permissibility of marriage with non-Muslims or eating non-Muslim prepared food, to societal or state imposed regulations pertaining to transactions, capital punishments, compensations, and political rights and duties, we find that the legal edicts of mainstream Muslim jurists demonstrate widespread distinctions/discriminations between Muslims and Non-Muslims. The impact of such distinctions/discriminations not only affects non-Muslims residing in pre-dominantly Muslim societies but also affect Muslims who reside in minority contexts.

The 4th Annual contemporary fiqhī issues workshop at Al-Mahdi Institute aims to facilitate scholarship directly addressing questions surrounding the status of non-Muslims in Sharīʿa. The workshop seeks to explore fiqhī or juristic justifications and challenges to such positions and emerging alternatives. As in previous gatherings such fiqhī debate will be situated alongside contributions dealing with broader theological, legal, historical, anthropological and sociological approaches that can enrich a multidisciplinary understanding of contemporary visions for the status of non-Muslims in Sharīʿa.
**Thursday 2nd June 2016**

10:45-11:30 - Registration and Opening Remarks by Dr Ali-Reza Bhojani

11:30-13:00 – Panel ONE chaired by Dr Ali-Reza Bhojani

**Protecting dhimmīs: British Christian Responses to the Status of Non-Muslims in Shari‘a**

Dr Richard McCallum (Centre for Muslim-Christian Studies, Oxford)

**The Qur’an and Other Religions: Pluralism and Diversity**

Professor Abdulaziz Sachedina (George Mason University)

13:00-14:15 – Lunch and Salat

14:15-15:30 – Panel TWO chaired by Dr Hashim Bata

**Reconciling Text and Context: Some Reflections on Reclaiming Dynamism within the Islamic Legal Traditions**

Professor Shaheen Sardar Ali (University of Warwick)

**Peace and Just War through the Qur’anic Lens: A Reading**

Dr Ramon Harvey (Cambridge Muslim College)

15:30-16:00 – Break

16:00-17:15 – Panel THREE chaired by Dr Ali-Reza Bhojani

**In Critique of Religious Self-Superiority**

Professor Ayatollah Sayyid Muhaqiq Damad (Shahid Beheshti University)

**The Battle for Hearts: Reconciling Hearts with Zakat**

Shaykh Sohail Hanif (University of Oxford)

17:15-17:25 – **Closing remarks** by Dr Ali-Reza Bhojani
Programme Schedule: Day 2

Friday 3rd June 2016

09:45-11:15 – Panel ONE chaired by Dr Wahid Amin

Religious Identity: From premodern to modern World
Dr Ali Fanaei (Al-Mahdi Institute)

“A minority within a minority”? - Creating Shia Spaces in Britain
Professor Oliver Scharbrodt (University of Chester)

Zoroastrians under the Shari’a
Professor Robert Gleave (University of Exeter)

11:15-11:45 – Break

11:45-13:00 – Panel TWO chaired by Dr Wahid Amin

The Status of the Other in the Shari’a and the permissibility of meat slaughtered by non-Muslim
Shaykh Arif Abdul Hussain (Al-Mahdi Institute)

The Disqualification of Non-Muslims as Witnesses in Islamic Law
Professor Aron Zysow (Independent Scholar)

13:00-14:45 – Lunch and Salat

14:45-16:00 – Panel THREE chaired by Shaykh Muhammed Reza Tajri

The Permissibility of Marrying a Christian or Jewish Female according to Imami Jurisprudence
Sayyid Hossein al-Qazwini (Islamic Seminary of Karbala)

Shedding Light on Essential Human Purity
Shaykh Mushtaq Al-Khaqaani (Imam al-Jawad Foundation for Thought and Culture)

16:00-16:30 – Break

16:30-17:45 – Panel FOUR Shaykh Muhammed Reza Tajri

More freedom for the others! The Fiqhi Dār oriented world order v. the modern Westphalian one
Professor S M Ghari Fatemi (Al-Mahdi Institute & Shahid Beheshti University)

The Dhimma System Between the Pre-Modern & the Modern
Shaykh Salman Younas (University of Oxford)

17:45-18:00 – Closing remarks by Dr Ali-Reza Bhojani
Dr Richard McCallum has a B.Sc. in Physics (London, Imperial), an M.A. in Applied Linguistics (Leicester), and a Ph.D. in Sociology (Exeter) His doctorate explored Christian responses to Islam in the British context and based at the University of Exeter where he taught the Sociology of Religion. He has also taught Contemporary Islam, Christian-Muslim Relations and Christian Responses to Islam at various colleges and conferences in addition to providing freelance cross-cultural training to industry and the public sector. His most recent research projects include an evaluation of an interfaith summer school run by the Cambridge Interfaith Programme and a survey of the teaching of Islam in British theological colleges. **Abstract:**

**Protecting dhimmis: British Christian Responses to the Status of Non-Muslims in Sharīʿa**

This paper examines how contemporary British Christian literature presents the sharīʿa, and in particular the dhimmī rules, in relation to non-Muslims. Apart from terrorist atrocities perpetrated by those claiming to be Muslims, no other single issue is as damaging to the image of Islam in the minds of British Christians as the situation of Christian minorities living under Muslim majorities. Christian advocacy groups regularly report on the abuses and persecution experienced by “the suffering church” in such lands and these are often presumed to be part of a sharīʿa-mandated discrimination against non-Muslims. Books and articles written by Christians frequently refer to the traditional rules governing dhimmī citizens; magazines catalogue specific cases of abuse from Morocco to Indonesia; and conference speakers warn of the dangers for non-Muslims of the imposition of sharīʿa law around the world. Not all parts of the church would share such pessimistic assessments but in some, particularly the fastest growing evangelical and Pentecostal churches, these issues serve to confirm their worst fears that Islam is anti-Christian. In many cases this is the only education that these Christians will receive about Islam and it inevitably colours their views. It has even developed into a theory of “Christianophobia”.

The paper considers the various influential voices on this topic, particularly within the evangelical church, and explores the impact they have on the attitudes of ordinary British Christians towards Muslims. It explores reactions to the recent Marrakesh Declaration and asks whether such initiatives can overcome the negative impressions built up of the status of non-Muslims under sharīʿa. The paper also examines a second closely related issue. Many Christians are concerned about freedom of conscience, conversion and the laws governing ḫirāṭ. They are aware of the traditional Islamic sanctions against apostasy and yet, apart from media representations, are often unaware of the current conversations within Muslim communities on this topic. The paper finishes by reflecting on possible signs of hope in the trajectory of Muslim-Christian relationships.

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**Participants Bio’s and Abstracts**

**Protecting dhimmis: British Christian Responses to the Status of Non-Muslims in Sharīʿa**

**Dr Richard McCallum** - Centre for Muslim-Christian Studies, Oxford
The Qur’an and Other Religions: Pluralism and Diversity

Prof. Abdulaziz Sachedina – George Mason University

Abstract: The Qur’an and Other Religions: Pluralism and Diversity

Scriptural traditions like Islam are intrinsically pluralistic. In the absence of an authoritative institution like the “church”, foundational sources of Islamic rules, in relation to non-Muslims. Apart from terrorist atrocities perpetrated by those claiming to be Muslims, no other single issue is as damaging to the image of Islam in the minds of British Christians as the situation of Christian minorities living under Muslim majorities. Christian advocacy groups regularly report on the abuses and persecution experienced by “the suffering church” in such lands and these are often presumed to be part of a shari‘a-mandated discrimination against non-Muslims. Books and articles written by Christians frequently refer to the traditional rules governing dhimmī citizens; magazines catalogue specific cases of abuse from Morocco to Indonesia; and conference speakers warn of the dangers for non-Muslims of the imposition of shari‘a law around the world. Not all parts of the church would share such pessimistic assessments but in some, particularly the fastest growing evangelical and Pentecostal churches, these issues serve to confirm their worst fears that Islam is anti-Christian. In many cases this is the only education that these Christians will receive about Islam and it inevitably colours their views. It has even developed into a theory of “Christianophobia”.

The paper considers the various influential voices on this topic, particularly within the evangelical church, and explores the impact they have on the attitudes of ordinary British Christians towards Muslims. It explores reactions to the recent Marrakesh Declaration and asks whether such initiatives can overcome the negative impressions built up of the status of non-Muslims under shari‘a. The paper also examines a second closely related issue. Many Christians are concerned about freedom of conscience, conversion and the laws governing irtidād. They are aware of the traditional Islamic sanctions against apostasy and yet, apart from media representations, are often unaware of the current conversations within Muslim communities on this topic. The paper finishes by reflecting on possible signs of hope in the trajectory of Muslim-Christian relationships.
Reconciling Text and Context: Some Reflections on Reclaiming Dynamism within the Islamic Legal Traditions

Prof. Shaheen Sardar Ali – University of Warwick

Abstract: Reconciling Text and Context: Some Reflections on Reclaiming Dynamism within the Islamic Legal Traditions

This presentation seeks to raise questions around the contexts in which norms relating to the Muslim/non-Muslim dichotomy. For instance, are distinctions between Muslims and non-Muslims grounded in theology and the religious texts in Islam? Or, are these informed by political considerations and (Muslim) state interests of a fledgling (Muslim) community with a view of establish a position of superiority within a religiously diverse political environment? Neither of these lines of enquiry satisfactorily explain the agreements arrived at in the document known as the 'Medina Constitution' by the Prophet Muhammad. The presentation will attempt to conceptualise a dynamic and context-responsive understanding of the position of Muslims and non-Muslims in a much changed and changing world of the nation and post-nation state.
Peace and Just War through the Qur’anic Lens: A Reading

Dr Ramon Harvey – Cambridge Muslim College

Dr Ramon Harvey studies the Islamic scriptural sources and classical disciplines with a focus on Qur’anic interpretation and the shari’a. He received his MA and then PhD in Islamic Studies from SOAS, University of London, completing a thesis on societal justice in the Qur’an. Alongside his academic training, he has spent a number of years studying with traditional Islamic scholars in the UK and has attended an intensive programme at Al-Azhar in Cairo. As a result, he has earned a licence in Islamic scholarship (‘alimiyya). He has previously worked as a Senior Teaching Fellow at SOAS lecturing in Qur’an and Hadith, as well as writing biographical entries of early Islamic figures for a forthcoming collection. Since 2014, he has worked as a Research Fellow at Cambridge Muslim College, during which time he has co-convened a symposium on revelation and prophecy; researched and published on qirāʾāt; and completed his book entitled ‘The Qur’an and the Just Society’, due 2017 from Edinburgh University Press

Abstract: Peace and Just War through the Qur’anic Lens: A Reading

There is agreement amongst Muslims that the norms of the shari’a are grounded in the Qur’anic revelation. This paper seeks to present a fresh analysis of the ethics of political interactions between Muslims and non-Muslims drawn from a thematic reading of relevant Qur’anic passages. By contextualising the Qur’anic discourse in its socio-historical context within the life of the Prophet Muhammad, I seek to extract its hikmas (principles; wise benefits) and reveal its basic moral structure, which I will argue differs in several critical respects with many dominant juristic views. In particular, I will argue for the continued relevance of the Qur’anic permissibility, and even encouragement, for treaties and alliances with non-Muslims against those who argue for its abrogation. I will also defend the ethical consistency of the Qur’anic approach to matters of war and peace, which has been questioned by some contemporary academic scholars.

I will start with a defence of the Qur’an’s commitment to freedom of conscience and discuss how this relates to its acknowledgement that human beings will form differing political communities on that basis. At this juncture, I will present an argument that the Qur’an and the actions of the Prophet Muhammad do not support the legislation of the death penalty for the action of apostasy simpliciter; and that the reports usually adduced to support this relate to retaliatory killing for previous murders, or treason. Furthermore, I will argue that the Qur’anic discourse consistently starts from the assumption of initially non-antagonistic relations between Muslim and non-Muslim communities and will discuss how treaties founded in a basic assumption of peace can become active alliances. Finally, I will analyse the circumstances in which a Muslim community can disavow its treaties and go to war with its non-Muslim counterparts, as well as the institution known as jizya, a tribute paid by those under its governance.
In Critique of Religious Self-Superiority

Ayatollah Sayedd Mohaghegh Damad – Shahid Beheshti University

The founder of the Hawza of Qum- Ayatollah Mohaghegh Damad had two separate courses of education. He first attended the renowned Fayzieh School at Qum, Iran, where he received his traditional Islamic education in Arabic language and literature, Qur’an and hadith, Islamic philosophy, theology and jurisprudence. On this background he achieved the status of Mujtahid (Ayatollah) in 1970. Parallel to his traditional studies he pursued a modern academic education, first at Tehran University. There he was awarded a B.A. in Islamic Philosophy and an M.A. in Islamic Jurisprudence. After that he went to Belgium, to conduct research for a Ph.D. in Law at the Catholic University of Louvain-la-Neuve, being awarded his doctorate. Ayatollah Mohagegh Damad is one of the very few high-level Mujathids in Iran to have been educated in international law in the West; he is also recognized as one of the most important philosophers of the Shia world, acknowledged to be one of the leading teachers in the Hawza of Qum. Abstract: In Critique of Religious Self-Superiority Today, thousands are killed daily and millions, mostly women and children, have been forced to leave their shelters as the result of the intensification of the religious conflicts in different parts of the world. Thus, religions are the main suspects of this misery. It is said that the contention is naturally embedded in religions’ teachings as each classifies the humankind into believers and unbelievers. Such a categorisation would inevitably invite conflict and war.

Therefore, the duty of religious scholars is to address this accusation, though, it is not an easy job.

This paper responses to this dilemma by two -phase task. First is the new interpretation from believer and non-believer and the second is the understanding of goal of religions and the Holy Prophets.
The Battle for Hearts: Reconciling Hearts With Zakat

Shaykh Sohail Hanif – University of Oxford

Shaykh Sohail Hanif graduated in 2000 with a Bachelor’s degree in Information Systems Engineering from Imperial College London, after which he spent an extensive period in Jordan as a student and teacher of Arabic and Islamic studies. He is currently a DPhil student in Oriental Studies at the University of Oxford where his thesis studies legal change, fatwā, and the construction of authority in classical Islamic legal thought, focusing on the Central Asian Hanafi tradition. **Abstract:** The Battle for Hearts: Reconciling Hearts With Zakat One of the categories of zakat recipient listed in verse 9:60 of the Holy Qur’an is the *mu’allafat qulūbuhum*, or “those whose hearts are to be reconciled”. It has been explained variably as those who are newly converted to the faith to whom zakat funds are given to encourage them to remain, or those who are close to the faith to whom zakat funds are given to encourage them to convert, or those who are opposed to the faith to whom zakat funds are given to encourage them to desist from their open opposition. This paper explores the writings of the four Sunni schools of law to summarise the varying explanations and points of doctrine applied to this category of zakat recipient. The paper will present the common themes that are shared between schools as well as points of divergence. It will then reflect on the notion of conversion and the relation of the Muslim community to the non-Muslim that this topic of law indicates. It will conclude by reflecting on the possible applications of this topic to Muslims in minority contexts such as the UK and points out areas for further investigation. The topic of zakat opens up an avenue for a unique fiscal identity that can be pursued by Muslims in minority contexts, and the topic of the *mu’allafat qulūbuhum* opens up an avenue and direction for them to use this fiscal identity for political advantage. Thus, the topic of zakat in minority contexts and centralising its collection and distribution whilst exploring its philosophy and purpose is of the most empowering matters for Muslims in Britain, and the topic of *mu’allafat qulūbuhum* can hold a unique perspective on their relation with the wider non-Muslim community.
Dr Ali Fanaei completed 17 years of seminary studies in the Hawza Ilmiyya of Qum. His teachers included; Ayatullah Sayyid Muhaqheqh Damad, Ayatullah Tabrizi, the Ayatullah Haeiri, Ayatullah Vahid, Ayatullah Montazeri, and the Ayatollah Ahmad Mianeji. He has an MA in Islamic Theology from the University of Qum taking special interest in modern theology and philosophy of religion. He then moved to the UK to conduct research at the University of Sheffield where he was awarded an Mphil for research on Moral Scepticism and Realism and a PhD for research regarding the epistemic justification of moral beliefs. Alongside training students at Al-Mahdi Institute, he has also published a number of influential works in Farsi, through which Dr Fanaei is becoming known as one of the most important of a select group of roshan fikri (‘enlightenment thinkers’) whose engagement with questions pertaining to the modern world is informed with the deepest Hawzawi credentials.

Abstract: Religious Identity: From premodern to modern World

In this article we will try to show that the dominant norms of Sharia, accepted by the overwhelming majority of Muslim jurists, regarding the legal status of non-Muslim citizens and their relationship with Muslims is based on some philosophical and hermeneutical unspoken assumptions concerning the meaning and function of religious identity in general and the conception of Islamic identity in particular. Therefore a justified and sustainable reform and revision of these legal norms and verdicts depends on a more basic revision of these assumptions.

First, we will look at the meaning of the term “Islam,” and its derivatives in Qur’anic usages from a hermeneutical and exegetical point of view in order to show that this term has two significantly different, and nevertheless closely relevant, meanings in the Qur’an. While the first meaning is strictly exclusive, and a potential source of legal discrimination between Muslims and non-Muslims, the second one is widely inclusive, and a potential source of legal equality. Then, based on the distinction between these two meanings, we will raise the following question and try to find suitable answer for it: Why did the exclusive meaning of Islam, instead of the inclusive one, become a criterion for the legislation of citizens’ rights and duties?

Second, we will try to show that in the premodern world religious identity was not just a religious identity. Rather it had some very important geo-political functions as well. In contrast, in the modern world that identity seized to have these non-religious functions due to the separation of the state from the church, as two social institutions. Therefore, Muslim jurists are supposed to take the new situation seriously and take this fact into account when trying to infer rulings of Sharia from its sources. The idea is that since religious identity does not have its geo-political functions anymore, those ruling of Sharia concerning the rights and duties of citizens which presuppose these functions should be revised.
A minority within a minority? - Creating Shia Spaces in Britain

Prof. Oliver Scharbrodt – University of Chester

Professor Oliver Scharbrodt BA (Hons) (Bonn, Germany), MA, PhD (London), FHEA is the first Professor of Islamic Studies at the University of Chester. He studied Comparative Religion, Islamic Studies and Philosophy at the University of Bonn and completed his postgraduate studies and research at the SOAS University of London. His research interests lie in contemporary Islam, Sufism, Shia Islam and Muslims in Europe. His research combines historical, textual approaches to Islamic Studies with ethnographic methods. He led pioneering research on Muslims in Ireland whose results have been published by Edinburgh University Press next year. He is currently involved in a research project on Shia communities in Britain and their transnational links to the Middle East, funded by the Gerda Henkel Foundation. He is also translating Kitab Al-Hujja from Al-Kafi fi ‘Ulum Al-Din by Al-Kulayni from Arabic into English. Prof Scharbrodt is the executive editor of the Yearbook of Muslims in Europe, published by Brill. Abstract: “A minority within a minority”? - Creating Shia Spaces in Britain Academic scholarship on Shia Muslim minorities in the West has described them as “a minority within a minority” (Sachedina 1994) or as “the other within the other” (Takim 2009), referring to a certain sense of double-marginalisation of Shia Muslim minorities in non-Muslim societal contexts. They need to undertake particular efforts to maintain both an Islamic as well as particular Shia identity in terms of both communal activities and practices and public perception and recognition, responding to the rise of Islamophobia more generally and anti-Shia sectarianism more specifically. This paper will problematise this notion of a double-marginalisation of Shia minorities in the West by investigating the dynamics around the creation of Shia communal spaces in North London and the public representation of Shia Muslim identities by networks and organisations based there.

While Shia Muslims in Britain constitute a minority within a minority, their presence is also characterised by internal diversity, based on ethnic background, ideological orientation and class and social status. The paper argues that both public discourse and academic research so far has failed to encapsulate the complex dynamics within Shia communities in Britain. Intra-communal factionalism has been either overstated or ignored. Particular forms of public engagement have been recognised as progressive and constructive, while the social conservatism of some communities has been simplistically interpreted as segregation from British society. Transnational and diasporic Shia networks in London are rather situated in a “diaspora space” which is marked by complexity and heterogeneity. Following Webner’s notion of “complex diasporas”, the paper discusses how Shia diasporic spaces in London can be “both ethno-parochial and cosmopolitan” (2010). Taking the examples of a number of Shia networks present in London, the paper examines how these communities mediate between being conduits between diaspora and homeland and being representatives of Shia Islam in British society.

By investigating how diverse understandings of Shia identities are articulated and represented both within Shia networks in Britain internally and to the wider public, the paper illustrates the actual complexity and diversity of Muslim, and more specifically Shia Muslim lives in Britain, which jurisprudential “Muslim/non-Muslim” and sectarian “Sunni/Shia” dichotomies cannot sufficiently encapsulate. As a contribution to current jurisprudential debates on the relationship between Muslims and non-Muslims, the paper intends to inform these discussions with its ethnographic fieldwork-based research on Shia Muslims in London.
Zoroastrians under the Shari’a

Prof. Robert Gleave – University of Exeter

Professor Robert Gleave is Professor of Arabic Studies at the Institute of Arab and Islamic Studies, University of Exeter. His primary research interests include hermeneutics and scriptural exegesis in Islam; Islamic law, works of Islamic legal theory (usul al-fiqh); violence and its justification in Islamic thought; and Shi’ism, in particular Shi’i legal and political theory. He has organised a number of funded research projects including Islamic Reformulations: Belief, Governance and Violence (www.islamicreformulations.net) and Legitimate and Illegitimate Violence in Islamic Thought (www.livitproject.net). He is author of Islam and Literalism: Literal Meaning and Interpretation in Islamic legal theory (EUP, 2011) and Scripturalist Islam: The History and Doctrines of the Akhbari Shii School of Thought (Brill, 2007).

Abstract: Zoroastrians under the Shari’a In this paper I will examine some of the debates around the position of Zoroastrians in fiqh literature, and the issues of general concern raised by these discussions. To what extent is the division of scriptural/non-scriptural religions justified? What are the criteria of a “scriptural” religion? Is the category of scriptural religions extendable? Is detailed knowledge of a non-Muslim religious community and its beliefs and practices necessary in order to classify them? Zoroastrians are problematic for classical fiqh categories for a number of reasons: one the one hand, it might be argued, they have a Quranic sanction as people of book; on the other, it could be said this sanction is hardly decisive and they do not have the necessary “Abrahamic” heritage. In the Shi’i context, the situation is yet more complicated by the close association of Zoroastrian identity and the country of Iran, and the presence of substantial Zoroastrian community living under the jurisdiction of the Islamic Republic of Iran. These and related topics which form the main concerns of my presentation.
The Disqualification of Non-Muslims as Witnesses in Islamic Law

Prof. Aron Zysow – Independent Scholar

Prof. Aron Zysow received his A.B. (Classics), Ph.D. (Islamic Studies), and J.D. from Harvard. From 2000 to 2005 he served as Research Associate for the Islamic Legal Studies Program at Harvard Law School. Before that he taught Arabic and Islamic Studies at the University of Washington in Seattle and Washington University in St. Louis and commercial law at Baruch College, City University of New York. His academic interests are Islamic law, particularly legal theory, and theology. In addition to teaching several courses while at Princeton, Zysow will complete a book on the history of usul al-fiqh and its relationship to kalam. He is the author of “If Wishes Were: Notes on Wishing in Islamic Texts”, “Classical Arabic Humanities in Their Own Terms” and “Two Theories of the Obligation to Obey God's Commands,” in The Law Applied: Contextualizing the Islamic Shari’a: A Volume in Honor of Frank E. Vogel. In addition, he has contributed articles to a number of reference works and recently completed a study of the Karramiyya sect. 

Abstract: The Disqualification of Non-Muslims as Witnesses in Islamic Law

A notable feature of the Islamic law of procedure is the exclusion of non-Muslims as witnesses against Muslims. Indeed some influential early jurists, including Mālik b. Anas (d. 179/795) and al-Shāfi‘ī (d 205/820), went so far as to exclude non-Muslims entirely as witnesses in all cases. Drawing upon a broad range of legal literature across the centuries from a variety of legal groupings, both Sunni and Shi‘ite, this paper surveys the classical law on the subject of the testimonial incompetence of non-Muslims. Particular attention will be devoted to the various justifications, textual and conceptual, put forward by the jurists for this religiously based exclusion, and the assumptions, factual and normative, that underlie these justifications will be elicited and closely scrutinized. The wider subject of the role of non-Muslims outside the courtroom as sources of information on a variety of subjects, both religious and secular, will furnish a framework in which the distinctively legal issues can be discerned. Of particular interest is the question of the degree to which the Islamic law of evidence with respect to the disqualification of non-Muslim witnesses is consistent with the epistemic notions deployed in other areas of Islamic thought, above all theology (‘ilm al-kalām) and legal theory (uṣūl al-fiqh). The extent to which differing theological commitments might have born upon the exposition of the law of evidence will be explored. After a long period of neglect, the past few decades have seen a remarkable upswing of interest among analytic philosophers in the question of the nature and scope of our dependence on what others tell us for much of our knowledge of the world. These philosophers have proposed a variety of distinctions and theories to account for our universal and indeed unavoidable practice of relying on the word of others in the most varied settings. This rapidly growing philosophical literature will be exploited in the treatment of the analogous issues that faced Muslim thinkers.
Shedding Light on Essential Human Purity

Shaykh Mushtaq Al-Khaqaani – Imam al-Jawad Foundation for Thought and Culture

Shaykh Mushtaq Al-Khaqaani is the official representative of Ayatullah Sayyid Kamal al-Haidery, in Europe. **Abstract:**

*Shedding Light on Essential Human Purity*

Our classical scholars have used the verse quoted above as well as other verses and narrations to rule that a non-Muslim is essentially impure, considering him within the class of essentially impure things (najis al-ʿayn). For him to be 'purified' would only be through his embracing Islam. In their opinion, therefore, he is born impure, despite the loftiness of his creation, as evidenced by the Qur’an: “We have created man in the finest state.” Moreover, they do not even consider him on the same footing as some non-impure animals. The most renowned classical Imāmī jurists - contrary to their counterparts in other juristic traditions - even used to consider the People of the Book impure, let alone infidels such as Buddhists, atheists and the like. Today, however, the predominant view of our scholars is that the People of the Book are pure.
The permissibility of marrying a Christian or Jewish female according to Imami Jurisprudence

Sayyed Hossein al-Qazwini – Islamic Seminary of Karbala

Sayyed Hossein Al-Qazwini graduated from UC Berkeley with BA in Religious Studies in 2004. He joined Islamic Seminary in Karbala from 2004-2010, and Seminary of Najaf from 2010-2014. He then began teaching upper level Fiqh and Rijal (known as Bahth al Kharij) according to the Shii Imami school of thought in the Islamic Seminary of Karbala since December, 2015. Author of two books; 1-Compilation of research articles on controversial legal/fiqh issues (ie unity of horizons, marriage with non Muslims) in two volumes; 2-The Role of Rational Practice in Islamic Jurisprudence. This book was the most detailed work written in legal theory regarding rational practice. Currently authoring three books: 1-Studies on the Contemporary and Controversial Laws of Hajj (Arabic) 2-Studies on the Principles of Ilm al Rijal (Arabic) Abstract: The permissibility of marrying a Christian or Jewish female according to Imami Jurisprudence The permissibility of marrying a female from ahlul kitab (Christians and Jews) is greatly debated among the jurists of the Imami sect. There are six major opinions on this matter. But the most significant of these opinions are three: the first is the permissibility of marrying a Christian or Jewish female in both a permanent as well as temporary marriage. The second is the impermissibility of both kinds of marriage, which is completely opposite to the first opinion. The third is the permissibility in temporary marriage and impermissibility in permanent marriage. We uphold the first opinion, which is the permissibility of both marriages, and the paper will attempt to prove such point. The major disagreement lies in understanding the seemingly-contradictory verses regarding marriage with non-Muslim females. If this disagreement can be settled, the conflicting narrations can also be solved. Do the verses completely contradict one another? Or are some verses general (‘am) and others are specific (khas)? Also, are the narrations clear in forbidding marriage to females from ahlul kitab, or do they merely discourage one from doing so? Some verses clearly allow marriage to ahlul kitab yet say "give them their 'ujur". Some analyzed this word to mean the dowry of a wife in temporary marriage, while the dowry in permanent marriage is called 'mahr" or 'sudaq". Does this mean that only muta with female non-Muslims is allowed while permanent marriage is not allowed? Our paper will attempt to answer the above questions.
The Status of the Other in the Shari‘a and the permissibility of meat slaughtered by non-Muslim

Shaykh Arif Abdulhussain – Al-Mahdi Institute

Abstract: The Status of the Other in the Shari‘a and the permissibility of meat slaughtered by non-Muslim

In principle theologically there is no distinction in relation to the hurma (dignity) of any human in terms of their religious persuasions except in broad terms of the designations of friend and enemy of God. This is confirmed by universal verses such as most proximate to God is the most God conscious and Ibrahim distanced himself from Azar when it became evident that He (Azar) was an enemy of God. The distinction between friend and enemy of God on the other hand is purely based on the criteria of god centricity and human moral values accordingly the societal distance that was created between the faithful and enemy of God was an essential one. Categories other than the Muslims such as the people of the Book were not considered enemies of God. Similarly any of the god centric religions at present or a-religious groups who uphold human moral values cannot be considered as enemies of God. In this respect the distance created between the community of the faithful and the Other in varying degrees of Abrahamic and non-Abrahamic origins in many of the restrictive Sharia regulations is not essential. An evidence of this are the general and at times the ambiguous instructions of the Quran permitting marriage, consumption of food and general interaction with the Other and in particular those of them who belong to the Book. Although the subsequent hadith literature has particularised the generalities of the Quran and explicated its ambiguities yet there is sufficient leverage within the hadith to suggest that its restrictions were either contextual or in terms of best practise as opposed to minimal requirements. When analysed in the existential scheme of essential and non-essential extensions the Sharia essential regulative requirements that are minimal can be clearly delineated in terms of the interactions with the Other or the category of mu‘amalat. Such analysis in subordination to the Sharia instructions creates space for meaningful of interaction with the Other especially within the modern context. For the purpose of this paper the regulative instructions pertaining to halal meat will be analysed through the idea of essential and non-essential extensions to discern the bare minimal requirements before meat can be lawful for consumption. The verses dealing with animal consumption and hunting will be considered in addition to a variety of hadith literature pertaining to animal slaughter to determine that the minimal requirement for lawfulness of meat consumption is the severing the four veins and the non-sacrifice for other than God. All other requirements are in terms of best practice and can be dispensed with if it come to it.
Seyed Fatemi spent thirteen years studying to the highest level in the traditional educational seminaries of Qum under the direct instruction of some of the leading scholars of the present day. Alongside his traditional education, Seyed Fatemi was also trained in Public Law at Tehran University, receiving the award of both an LLB and an LLM. In 1999 Seyed Fatemi was awarded with a PhD from the Faculty of Law at the University of Manchester for research engaging with Comparative Human Rights. Seyed Fatemi's teaching and research interests include: the Philosophical foundations of human rights, International and comparative Human rights, Islam and Human Rights, Usul al-Fiqh and Hermeneutics, the History and Development of Fiqh, and Muslim Theology.

**Abstract:** More freedom for the others! In this paper I shall first outline the main legal characteristics of the dâr oriented order as proposed in classic Islamic fiqh and shed some light on its legal/ethical implications. Then I will introduce the reader to the main characteristics of the current Westphalian order and its legal/ethical implications. Although neither of these two systems proposed a human centric world order, the contrastive approach seems to demonstrate the fact that despite all its legal/ethical shortcomings the fiqhi order leaves more room for men to choose how to live and where to be in this world. Assuming individual's freedom to change their legal status in society as a significant criterion for considering them active free agents, in the fiqhi dâr oriented world order individuals seems to enjoy more liberty to do so. It is only him who ultimately decides where to be, and thus offers his loyalty to his preferred territory. While in the Westphalian world order, State (the
The Dhimma System Between the Pre-Modern & the Modern

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Shaykh Salman Younas is a DPhil Candidate in Oriental Studies, University of Oxford. He is also an Instructor of Islamic Law for SeekersHub Global and a researcher of Islam and Politics for Averroes. Abstract: The Dhimma System Between the Pre-Modern & the Modern Sunnī legal texts addressing questions concerning the manner in which non-Muslim minorities were to be regulated within an Islamic political and social system generally did so when discussing the dhimma system. The central feature of the dhimma system was the extension of protection to non-Muslim communities in return for tribute (jizya). Although the protection extended to non-Muslim communities affirmed the inviolability of their lives, wealth, and honor, the dhimma system effectively relegated them to second-class citizens by regulating aspects of their every day lives, such as their dress, the types of animals they could ride, the height of their buildings, the bearing of arms, what they could sell, and so forth. These legal rules were systematized and elaborated by later jurists who drew from the Qur’an, prophetic sunna, and the practice of the early Caliphs.

In this paper, I seek to analyse the dhimma system in more detail in light of its reemergence in the modern period among groups like the Taliban and ISIS. I argue that among the core objectives of the dhimma system was the preservation of a dominant political, social, and religious order. The particular legal rules regulating non-Muslim communities that jurists articulated in classical legal texts were a means to achieve this core objective and are properly viewed as reflective of political and social practices present in Late Antiquity prior to the advent of Islam. In other words, the legal rules systematized by pre-modern jurists are not prescriptive norms but descriptive ones appropriated from and applicable to a particular context. By situating pre-modern legal articulations of the dhimma system in the framework of the prescriptive vs. the descriptive, I seek to demonstrate that the profound political, social, and cultural shifts brought about by modernity, such as the rise of the nation-state, nationalism, universal human rights, and the modern moral order, render the legal rules of the pre-modern dhimma system untenable and ineffective in attaining the core objectives for which they were initially legislated. Consequently, I seek to propose a reconceptualization of this system in the modern period in light of the aforementioned transformations and considerations. In the process, I discuss a broader methodological approach to examining pre-modern legal rules relating to the political that attempts to identify and differentiate between normative principles and temporal legal rules.
The workshop addressed issues relating to the apparent tensions that have arisen in the understanding and practice of fiqh in the context of challenges from international law, extremist trans-national and terrorist organisations, domestic legal frameworks and the private practice of Muslims living in an increasingly interconnected and globalized world. From private issues related to permissibility of marriage with non-Muslims or eating non-Muslim prepared food, to societal or state imposed regulations pertaining to transactions, capital punishments, compensations, and political rights and duties, we find that the legal edicts of mainstream Muslim jurists demonstrate widespread distinctions/discriminations between Muslims and Non-Muslims. The impact of such distinctions/discriminations not only affects non-Muslims residing in pre-dominantly Muslim societies but also affect Muslims who reside in minority contexts.

The workshop benefited by the attendance of international research specialists from various educational institutes from around the UK and the globe, students and faculty of the Al-Mahdi Institute and other Institutions alike, as well as interested members of the public.

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