

Article

One Out of Many: The Civic and Religious in American Muslim Life

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Abstract: American Muslims regularly encounter a tacit distinction between the civic and religious spheres of their daily lives. Islamic legal norms are not invoked incessantly to highlight the differences between Muslims and their fellow citizens, but instead are considered relevant for particular issues at particular times. Through examining examples of how Muslims engage with the American economic and legal system, it is shown that much of one's engagement with the civic structures of American life is seen as unproblematic. Understanding this distinction helps Muslims participating in American life to properly conceptualize the relationship between their religious faith and their roles as citizens in the larger body politic.

Keywords: American Muslims; Islamic law; Islamic ethics; Islamic finance

1. Introduction

American law dominates the lives of American Muslims, not Islamic law. This may seem like an obvious observation in that the United States of America does not claim to implement Islamic law. However, based on 24 years of participant observation in the American Muslim community, one often has the impression that Islamic legal debates in American Muslim counterpublics have the force of law. However, that is a mirage, for Islamic law exists in the USA only as much as individuals and communities are convinced that it holds ethical authority over their lives. An American citizen must pay taxes and attend jury duty under threat of punishment by American legal authorities, whether or not one is convinced that it is the right public policy. In contrast, one will pay *zakāt/khums* and attend congregational prayers (*ṣalāt al-jamā'ah*) in the long run only if they are convinced it as an action commanded/recommended by their Creator (*al-Khāliq*). However, there are limits to acting out one's Islamic legal convictions, for American legal authorities conceptualize their authority as so far reaching and pervasive that it even reaches into American Muslims' worship (*ibādah*) in countries on the other side of planet Earth.

On 30 September 2021, the United States Department of the Treasury issued guidance to American Muslim citizens seeking to make pilgrimage to the burial place of Imām 'Alī b. Mūsā al-Riḍā (d. 818) in the city of Mashhad, Iran. The declaration explained that, even though the organization that runs the shrine was being sanctioned by the American federal government, it was still legal for US citizens to visit. However, it ominously noted that "U.S. persons are advised to act with caution when considering transactions or activities" with the management of the pilgrimage site ([US Department of the Treasury 2021](#)). The statement of the Treasury Department presupposes the legal identity as a "U.S. person" of an individual human being that is subject to American law in certain jurisdictions. In this case, a U.S. person is allowed to make pilgrimage to this site, but at the same time must be cautious about any "transactions" that might violate both the letter and the spirit of American sanctions on specific Iranian organizations and individuals. This federal guidance bears some similarity to the Islamic legal virtue known as cautiousness (*wara'*), which is sometimes conceptualized as the stage after merely observing the clear prohibitions of the law, when one avoids "doubtful and ambiguous (*al-shubuhāt*)" situations ([al-Gharnāṭī 1995](#),



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vol. 1, p. 69). The Treasury Department guidance also highlights the assumption that a U.S. person is free to do what they want with their wealth, provided it does not violate American law. In brief, an American Muslim can spend their money on a flight to Iran if they have the intention (*niyya*) to perform a pilgrimage to Mashhad (Arjana 2017, pp. 88–89). In addition, the American government explicitly states that they are permitted to engage in the “acquisition of goods or services for personal use while traveling.” Even more specifically, they may use their property to make “donations of articles, such as food, clothing and medicine...to the Imam Reza Holy Shrine intended to be used to alleviate human suffering.” However, presumably, this means that if they place some cash in a donation box in the Imam Reza Holy Shrine that is not earmarked specifically for alleviating human suffering (however that might be defined by American authorities), they are potentially subject to prosecution for violating the sanctions. Their intention to give optional charity (*ṣadaqa*) for the maintenance of a mosque (in this case, specifically, the mosque of Imām al-Riḍā in Mashhad) could be considered at odds with a specifically American legal conception of being cautious in regard to prohibited matters (e.g., sanctions).

The Treasury Department statement is a reminder that the limits of religious freedom in the United States of America have always been adjudicated by American law, not any specific religious tradition. American legislators explicitly prohibited polygamy as a challenge to the prevailing norms at the time of the Mormon Church, as well as in response to American colonial control over the Muslim populations of the Philippines (Wenger 2017, pp. 88–89). In doing so they used norms derived in part from Protestant Christianity to craft legislation specifically designed to restrict the ability of citizens to decide for themselves how they wanted to organize their sexual lives. In a different but related political moment, Protestant Christian norms were the basis of a legislative and law enforcement experiment in banning the production and sale of alcoholic beverages within American borders, known as Prohibition (Morone 2003, pp. 318–44). Both of these are instances of what some have called “the Protestant Secular” (McCrary and Wheatley 2017). Catholic Christian politicians played an important role in repealing Prohibition, highlighting the ways in which political power and religious communities in the United States are intertwined in complex ways. American law is not defined by, nor does it draw precedent from, Islamic legal history. In a country like Egypt or Iran, the legal tradition does make reference to the Islamic legal past, despite critiques such as Khaled Abou El Fadl’s perspective that Muslim jurists can no longer expect to be “the maintainers of law and order and functionaries of a living sociologically viable legal system” (Abou El Fadl 2014, p. 365). However, the USA has a different historical trajectory and instead derives its system from other traditions, most notably, the common law tradition of England (Friedman 2004, pp. 1–19).

So what does it mean to live within the bounds of Islamic law as an American citizen? To begin to answer this question, it is necessary to move away from a conception of Islamic law as a top-down discourse of “law and order” to a conception of Islamic law as a discourse that impinges on the subjectivity of the individual. To avoid unnecessary confusion, this is not necessarily a normative argument about how Islamic law *should* function in a world of nation states. Much ink has been spilled on this topic, as well as blood. Rather, it is a pragmatic assessment of the reality of how Islamic law *does* function as a discursive tradition in the specific context of the USA. As early as the late 19th century, Alexander Russell Webb (d. 1916) declared that he had “faith in the American intellect” to come “to understand Islam and not love it” (GhaneaBassiri 2010, p. 119). American citizens are free to convert to Islam if they so choose, and are also free to leave the faith without any legal penalty (Smith 2014). In such a socio-political situation, an American citizen must truly believe that they are morally accountable (*mukallaf*) in specifically Islamic legal terms in order to act upon the teachings of Islamic law. The entire edifice of commands and prohibitions within Islamic legal discourse is built on the assumption that it is addressing morally accountable individuals, and that certain categories of human beings (such as young children and the insane) are not bound to act according to the *sharʿa*. In an American context, that means that “U.S. persons” have to decide for themselves whether or not they are going to follow

any particular dictate of Islamic law. Someone born into a Muslim family in the USA can renounce Islam, and someone born into an Atheist family can embrace Islam and aspire to structure their life, to the extent possible, within their understanding of the Islamic legal tradition. American law does not provide the impetus for a Muslim citizen of the USA to travel to Mashhad to visit the Shrine of Imām ‘Alī b. Mūsā al-Riḍā, nor to attend the Ḥajj in Makkah. However, should they choose to do so, in the eyes of the US government they are still subject to American jurisdiction as “U.S. Persons” who are advised to be cautious in situations where they might violate American legal prohibitions. The proverbial “long arm of the law” is there to remind the American Muslim who ultimately has the power of punishment in this earthly realm.

2. The Economic Framework of American Life

It costs money to go on pilgrimage, which presupposes that an American Muslim has saved enough money in order to perform these acts of worship. In this regard, it is easy to take for granted the economic framework of American life, and the legal regime that supports that economic system. The 2022 Hajj packages arranged by New Jersey-based company International Hajj ranged in price from \$9800–\$13,500 ([International Hajj 2022](#)). Presumably, for most American Muslims, the money earned from working that goes to pay for pilgrimage expenses is earned in accordance with American law (this paper will not explore the issue of earning money from sources deemed illegal by American law). An American Muslim could work in the kitchen of one of the more than 30 restaurants in the San Francisco Bay Area certified by the Halal Food Standards Alliance of America ([HFSAA 2022](#)). If they chose to do so, they would likely be paid the minimum wage of the State of California (\$14 in 2022 for businesses with 25 or less workers) for a standard 40-h work week, thus earning a pre-tax income of \$28,000 for working 50 weeks out of the year. This would put them in the 12% tax-bracket of the Federal Income Tax. They could keep their earnings in a checking account because they do not want to earn any interest from a savings account, which they believe to be a form of the Qur’anicly prohibited *ribā* ([Saeed 1999](#)). In planning to afford a pilgrimage, they could try every month to make sure their expenses are less than their earnings. In the meantime, they could attend morning (*fajr/subh*) prayers at their local mosque, believing such an act to be highly meritorious in the eyes of God due to the many hadith narrations on the subject ([al-Qushayrī 1976](#), vol. 1, pp. 314–16).

Even this incredibly simple example of a worker at the bottom of the economic hierarchy in the USA reveals the pervasive nature of American law in the life of a Muslim citizen seeking to follow Islamic law. Their income is paid in dollars, a currency that is regulated by the aforementioned Treasury Department. Their savings are stored at a bank that must conform to relevant American banking laws, such that their deposits can be guaranteed by the Federal Deposit Insurance Corporation (FDIC). Their income level is determined in part by the California legislature, which can raise the minimum wage in response to macroeconomic conditions. The halal-certification organization (HFSAA) that certifies their restaurant is a 501(c)3 corporation, subject to American laws that govern non-profit corporations (such as the IRS rule that individuals can offset up to 50% of the tax liability for their adjusted gross income by making charitable donations to Muslim-run nonprofits with 501(c)3 status). The restaurant itself is subject to codes of cleanliness and worker safety decided upon by local, state, and Federal governmental agencies. In short, the entire structure of their economic life is pervaded by American law.

Recognizing the pervasive dominance of American legal structures in innumerable daily economic transactions reveals an often untheorized fact of Muslim life in the USA. Based on twenty four years of participant observation and various leadership roles in American Muslim organizations in the Midwest, East Coast and West Coast, American Muslims do not usually interrogate neither the minutiae of the legal structures that dominate their lives, nor the economic system that this legal structure supports. Specific commands and prohibitions of Islamic law make up the bulk of issues that American Muslims debate, such as whether or not one can listen to music, or the permissibility of various reproductive

technologies, but alongside these formal religious discourses is a tacit engagement with American civic life on a daily basis (Takim 2009, pp. 151–72). An American Muslim may prefer, all else being equal, to park their cash in an “Islamic” financial institution that claims to have structured all of its transactions within the broad contours of Islamic law. However, one does not regularly find extensive debates on whether or not it is impermissible (*harām*) to have a checking account at a major American bank, download PayPal and Venmo apps on one’s phone, or use a debit card at the supermarket just like most other citizens. Nor is it common to find American Muslims worrying about the fine print of the many contracts they have signed with myriad businesses in order to use their services, and whether or not those contracts are valid (*ṣaḥīḥ*) according to Islamic law. There are extensive debates in mosques in the United States neither as to whether food safety regulations are in conformity with classical Ḥanafī fiqh, nor as to whether classical conceptions of *siyāsa shar‘īya* in Shāfi‘ī texts indicate that it is important or not for the federal government to insure bank deposits up to \$250,000 to avoid the systemic collapse of the banking sector.

The social reality described in the preceding paragraphs is highlighted by a specific example of an American Muslim community project focused on utilizing Islamic law to address perceived injustices rooted in American legal structures. This project is known as Believers Bail Out (BBO), and they attempt to apply the rules of *zakāt* in Sunnī fiqh to the carceral system of the United States. BBO believes the rules of *zakāt* are geared towards social transformation, and seeks to “raise awareness within Muslim communities on the injustices of the bail bond system, immigration bonds, and the broader prison-industrial complex of which they form part” (Believers Bail Out 2022). What is striking about BBO is the creative way in which they have taken the classical *fiqh* issue of “freeing slave or debtors (*fī al-riqāb wa’l-gharimīn* [Qur’an 9: 60])” and applied it to the context of American criminal justice. In recent online fundraising campaigns during the month of Ramadan, they have been able to raise hundreds of thousands of dollars which they use to cover the bail of Muslims in pre-trial incarceration. However, this effort also makes no attempt to claim that a criminal justice system based on the Islamic legal tradition is inherently superior to the American criminal justice system. It takes for granted the existing legal structure of the USA as a given, and simply tries to make a difference given the reality on the ground.

BBO is rooted in a specifically American sense of law and justice, and seeks to find a point of resonance between the Islamic legal tradition and American realities. In the state of California in 2020, the issue of replacing cash bail with an alternate system (the policy issue directly relevant to BBO’s *raison d’être*) was the subject of a proposition voted upon by the general electorate. What was the right thing to do? Vote yes? Vote no? Abstain? A decision could have been the subject of an explicit *fatwā* from an Islamic legal authority, but there seemed to be little discussion about this particular proposition (based on actively seeking engagement as a participant-observer in Californian Muslim networks and organizations during the 2020 election season). The hundreds of thousands of Muslims registered to vote in California were essentially left to their own discretion to express their views on this important part of the American criminal justice system. The proposition ultimately failed, in part because those activists interested in reforming the system were divided on its proper replacement (Duara 2021). However, for the purposes of this article, the most salient point is that there was no formal articulation in California of anything that might be called an Islamic ethical perspective on this legislative issue, even though a discourse did already exist at the community level in the form of BBO (which emerged in Illinois). There was neither an invocation of classical Islamic jurisprudence, nor a conception of “the Islamic secular” as a potential way of framing the issue (Jackson 2017). It just was not an issue of concern, and it was not framed as one, in any palpable way by the Muslim populace of California. One day it could become a major subject of concern for American Muslims, and be addressed regularly in American Muslim counterpublics, but for now it remains a focus only for small-scale community projects such as BBO.

Conceptualizing the processes of how American Muslims save up for pilgrimage and how BBO attempts to intervene in the criminal justice system highlights ways in which

Islamic law may guide individual choices and communal projects while still leaving the dominating power of American economic and legal structures intact. Islamic law in the USA is not law, but rather a mental construct that motivates individual actions (such as saving for pilgrimage) or binds together like-minded individuals in specific collective actions (such as BBO). At the same time, regardless of whether or not one believes in Islam, a “U.S. Person” must contend with the federal income tax and pay the rate demanded by the IRS. A project like BBO must decide whether or not to incorporate as a 501(c)3 non-profit (BBO currently does not) and follow the legal frameworks of the American non-profit sector. This observation is significant when juxtaposed against the fact that family law has been an area of Islamic law that has maintained actual adjudicatory power in some Muslim-majority societies (Hallaq 2009, pp. 140–62). In contrast to those countries, the USA does not even have any recognized tribunals in the United States for the adjudication of family law matters, as there are in India for its sizeable Muslim minority (Bilimoria and Sharma 2018). There are only U.S. persons who choose, with the freedom granted to them by the American Constitution, to enact Islamic law within their personal and communal lives to the extent possible given the nature of civic reality. Anyone who does so has potentially developed, through myriad means, what ethicist Faraz Sheikh calls an “*abdī* subjectivity,” whereby they see themselves as subjects who strive to conform to ethical demands rooted in the Islamic tradition (Sheikh 2019). That religiously informed subjectivity, thus, inspires their ethical choices within the framework of American civic life.

Should an American Muslim ever become the owner of a successful chain of halal-certified restaurants valued at hundreds of millions of dollars, or should BBO ever become a multi-million dollar budget non-profit focused on criminal justice reform, then each will quickly experience the ways in which The Securities and Exchange Act of 1934—to give one prominent example—impacts their choices as both individuals and organizations. From 2015–2019, the author was tasked with the creation of the legal, economic, and religious structure of the endowment for Zaytuna College, the first accredited Muslim liberal arts college in the USA. When Zaytuna College decided to invest donated funds for the future benefit of the institution, it had to follow the basic legal framework for investments followed by all American colleges and universities, despite centuries of Islamic legal thought on the issue of endowments (*awqāf*). The board of Zaytuna, including well-known Mālikī scholar Hamza Yusuf and Shāfi‘ī scholar Zaid Shakir, had to decide what criteria might be used to screen potential investments to ensure the endowment was compliant with Islamic law. However, no matter what choices they made, they still had to adhere to the legal structure for investments that American laws, such as The Securities and Exchange Act of 1934, govern. Within that structure, there is space for Muslims to choose to eschew anything that violates their ethical commitments—such as not owning stock in corporations whose revenue is derived mainly from the sale of alcoholic beverages—but the overall legal and economic structure remains intact. The law of *awqāf* in the Islamic legal tradition was not the primary reference point for Zaytuna College, but rather the options for investment made possible by American law.

Because the economic framework of American life is widely accepted amongst the Muslim citizens of the USA, it helps to highlight the bifurcation between the religious and civic spheres of American Muslim life. Muslim practice post-9/11 has focused on the need “to construct institutions, communities, discourses and relations that reflected their actual lives and history in the United States” (GhaneaBassiri 2010, p. 377). Institutionalization has meant greater fealty to the legal structures that underpin American economic life, particularly because most American Muslim institutions are 501(c)3 corporations. There is no coordinated American Muslim movement to overhaul the economic structures of the USA and the legal system that supports it. Post-9/11, the greatest resistance to American realities came from those who sought to opt out of the system all together by trying to emigrate beyond American jurisdiction (an issue that will be analyzed below). What actually exists within the United States are efforts at the individual and organizational level to create sustainable subcultures of religious practice rooted in differing conceptions of

Islamic law. Whether or not any American citizen chooses to participate in these subcultures is their personal choice, rooted in their subjective perception of the value and validity (or not) of the Islamic legal tradition. Therefore, it is appropriate to characterize Islamic law in the United States of America as a primarily ethical discourse that exists within and is dominated by the adjudicating realm of the civic.

3. American Islamic Ethics between Theory and Application

The flipside of the observation regarding the domination of American law is the frank acceptance that Islamic law is virtually irrelevant to American public life, and that Islamophobic rhetoric about creeping shariah has no basis in reality. Legally speaking, an American Muslim never has to go to a mosque, is free to drink beer, and can even convert to Evangelical Christianity (Smith 2014). However, many American Muslims still freely choose to attend mosques and adhere to dietary norms rooted in classical Islamic legal discourse. They do so because: (1) They believe that such actions are commendable within their conception of Islamic law; and (2) Their subjectivity has been transformed enough to motivate them to act according to their beliefs. It is not enough to just believe something to be true (e.g., God will be pleased if I attend this mosque); rather, one's subjectivity has to be molded in such a way that there is an internal impetus that results in outward actions (Sheikh 2020). Any individual American Muslim could be motivated by love, fear, shame, guilt, habit, need for identity, desire for friendship or any number of other subjective experiences that make praying in congregation seem to be worth their time and energy.

The fact of the matter is that part of the reason Muslims in the USA do not usually spend an inordinate amount of time thinking about many legal and political issues through a religious framework is because those issues are not framed in a way that impinges upon their subjectivities by invoking specifically Islamic conceptions of ethical authority. For example, if a Muslim attends a speech in a mosque by a person with the symbolic trappings of Islamic authority (e.g., beard and a turban), and that person says that God will grant them The Garden (*al-Jannah*) by being a good parent to their daughter, many might walk away feeling uplifted. That sense of upliftment might even lead to a greater awareness of the dynamics between parent and child, and the child might derive a sense of comfort from the speaker's words, perhaps leading to a sense that God cares about their well-being. These positive emotions can motivate much more engagement with that which is broadly seen as spiritually efficacious in the Islamic tradition (reading the Qur'an, making prayers, extra fasting, etc.). However, if the same speaker says that Muslims should not vote because voting in the USA is forbidden by God (*haram*)—a common view in American mosques prior to 9/11, less so afterwards—they will likely receive considerable pushback from the audience, unless their audience is already ideologically committed to such a viewpoint. The issue of raising a child is ultimately an individual one, and part of the positive reaction to the speaker's claim is due to the fact that they are touching on a personal matter in a hopeful way that invokes basic metaphysical presuppositions. However, the issue of voting is one that touches upon the entire political economy surrounding the American Muslim population, and that entire political economy forms the subjectivities of all within its borders in various ways. The issue of voting is not just a subsidiary issue—it is one that is symbolic of the entire edifice of American life. So the response that comes about will be driven, in large part, by the subjective experience of *being* American. A person subjected to decades of imprisonment might immediately identify with a rejection of the American political system, and yet a person whose educational opportunities and career advancement all took place in the USA might immediately reject the idea of not voting. Family is ultimately universal, but voting is not universal, and the symbolic weight that it carries in American civic life is very heavy. To claim that voting in the USA is forbidden within Islamic law is akin to saying that Islamic law rejects the entire American socio-political system. However, as the proceeding has argued, this does not reflect the general attitude of the millions of Muslims who live out their lives every day in the USA.

A critique of the American system overall might proceed by invoking the Islamic legal tradition itself. One might say that since Islamic law carries ultimate authority, such as in the Mamluk-era establishment of four Sunni court systems (Rapoport 2003), then of course God does not condone the American system. However, if that is the case, then why are Muslims even participating in it in the first place? If the entire system is so odious to the Possessor of All Sovereignty (*Mālik al-Mulk*), then would not emigration (*hijra*) be a better option? As briefly mentioned above, that is what some infamous American Muslims have done post-9/11. Former American Muslim preacher Anwar al-Awlakī left the United States altogether, and was eventually killed by American military forces in Yemen, raising the complex constitutional question over whether or not the government has the authority to assassinate a U.S. person deemed an enemy of the state (Chesney 2010). The global reach of American jurisdiction is highlighted by both the non-violent but threatening Treasury Department encouragement of cautiousness for U.S. persons traveling to Mashhad and the assassination of al-Awlakī, although at first blush they may seem like radically different issues. However, the fact of the matter is that punishment by the state is a very real facet of American life, whether the threat of punishment involves assassination or some lesser harm (Bazian 2004). After 9/11, the vast majority of American Muslims chose neither to leave the country, nor to wage war upon it, despite the invasion of two Muslim-majority nations (Afghanistan and Iraq) by American military forces. The conversion of American citizens to Islam continued, and the country now has a larger and more vibrant set of community institutions than anything prior to 9/11 (Hammer and Safi 2013). The entire lived experience of Islam in America calls into question the legitimacy of any individual making a blanket statement regarding non-participation and withdrawal from American economic, political and cultural life (GhaneaBassiri 2010). Very few American Muslims followed in al-Awlakī's footsteps, and thus, the ethical onus is on the preacher convinced of the irredeemably corrupt nature of American life to make the case to millions of American Muslim citizens that they are inherently violating the tenets of their faith by participating in the civic life of the USA. Yet, as the example of BBO or HFSAA (the Halal food certification agency) demonstrate, American Muslims also do not adopt every single feature of the current American status quo as normative and acceptable. If an American Muslim is critical of the American criminal justice system and wants to give their *zakāt* to push back, then BBO exists to facilitate that action. If they want to be very particular about where and what they eat, HFSAA facilitates that lifestyle choice. American Muslims behave *as if* they are free to do what they want according to their understanding of Islam.

One of the most popular American Muslim preachers, Imam Omar Suleiman, can leverage his millions of global followers to oppose the Chinese genocide of the Uyghur people because of the widespread perception that he is free to speak his mind but perhaps Chinese citizens are not (Suleiman 2022). If Suleiman were seen as a puppet of an authoritarian state, his words would not carry much weight. The perception that *he is free* in some meaningful sense of the term, and not coerced, implies that he is free to fashion his own Islamic ethic of living within the USA in precisely the ways that he claims Uyghurs in China cannot. Notably, he is free to do so in Texas, where his congregation is based, despite it being a state historically dominated by the Republican Party. It has not yet been demonstrated that any political party has been successful, at the state or federal level, at turning back the continued growth of Muslims under the American constitutional order. Surely the perception exists that Republicans are more Islamophobic than Democrats, but Muslim communities still flourish in red states nonetheless.

Put simply, the work of transforming subjectivities to adhere to perceived Islamic norms happens outside the realm of formal legal and political debates. No one starts waking up to go to the mosque for *fajr* prayer because they learned to do so in their law school class, nor do they choose to fast the month of Ramadan because they did a summer internship on Capitol Hill. Rather, someone might watch a YouTube video of a preacher like Omar Suleiman describing the importance of the ritual prayer (*al-ṣalāt*), and feel moved to perform it privately or publicly. Individuals might be pulled by personal connections

into certain pious networks that seek to embody what they believe to be the best of the Islamic discursive tradition within an American social context (Grewal 2013). However, while all of this is happening, the civic element of their lives continues regardless, as does the further development of American civic life at large without the need to address normative concerns of Islamic law. This becomes an instantiation of what Talal Asad said when he wrote, “the notion of a totalitarian Islam rests on a mistaken view of the social effectivity of ideologies...there has never been any Muslim society in which the religious law of Islam has governed more than a fragment of social life” (Asad 1986, p. 13). Even a nation state as deeply dedicated as the Islamic Republic of Iran is to making a classical legal school (the Ja’fari madhhab) the basis of a constitutional order has to contend with a possible bifurcation between religious and civic spheres, as seminarians unconvinced of a maximalist interpretation of shari’ah authority push back on the legal status quo (Ridgeon 2022). Looked at from this vantage point, the American Muslim community exists on a continuum of possibilities for living out Islamic law even without state enforcement or encouragement. In fact, the continued vitality of the American Muslim community is a pragmatic proof for the continued relevance of Islam as a living tradition, precisely because every American Muslim is free to leave the faith at any moment without legal penalties from American authorities. The principle of non-coercion, highlighted by Abou El Fadl, is already at play in the USA (Abou El Fadl 2014, pp. 399–401).

4. The Freedom to Create

Recognizing the distinction between the religious and civic spheres of American Muslim life creates the possibility of new formations of the application of Islamic norms to social reality. BBO was highlighted for precisely this purpose. BBO was not the brainchild of some eminent traditional legal authority outside of the USA, but rather the organic outcome of American Muslims seeking to create social change inspired by Islamic norms. New businesses, non-profits, artistic productions, and other endeavors are free to emerge in the American Muslim community without the oversight of any particular conception of orthodoxy or orthopraxy. While such a scenario may be daunting for some, it is also extremely exciting. It is left up to each American citizen to decide for themselves what human life means, and what one should do based on that meaning. If one wants to have children and raise them as a means to attaining the rewards promised in the Qur’an, then they are free to do so. If one wants to create a multi-billion dollar halal food empire and donate all of one’s profits to the liberation of the Palestinian people, that is a possibility as well. Being free does not mean there are no obstacles, or pushback from civil society (e.g., AIPAC) and/or government (e.g., Homeland Security). What it means is that American Muslims are allowed, within legal limits, to decide for themselves what American Islam will be. American Islam is not an abstraction, but is a collection of millions of individuals who every day choose to enact perceived Islamic norms or not. They get up in the morning and take a shower, and perhaps in their minds they conceive of that shower as a recommended ritual bath (*mustahabb ghusl*) according to *fiqh*, or they just think of it as a shower. Perhaps their intention (*niyya*) in cleaning themselves is to please God, or perhaps their intention is just to conform to social norms about acceptable levels of personal hygiene in the workplace. Outwardly, it is just a shower, but inwardly it can mean different things. Either way, the water agency that provides water to their home presumably adheres to all relevant local, state, and federal guidelines. Similarly, BBO is outwardly one of many American abolitionist groups, but for its participants it is experienced as a sacred Muslim duty.

This state of affairs drives home the undeniably individualist stream within American Islam. Whether this is a good thing or a bad thing is not the point—it appears to be a social fact when the long-term development of the American Muslim community is taken into consideration. As such, individuals are bound to the body politic by their participation within the American system. Even when they go abroad to Iran or elsewhere, the system still conceptualizes them as a “U.S. person.” They are given the freedom to craft their lives according to the norms that they feel best approximate Islamic ideals, and to utilize their

personal property how they see fit within the limits of American law. In this regard, they are no different from their fellow citizens, over whom they do not exercise any meaningful power in the name of their religious tradition. In this regard, the American Muslim is simply one out of many (an inversion of “*e pluribus unum* (out of many, one)”) citizens of varying worldviews within the ongoing American democratic experiment. They may resist being forced into the “false universals” of mainstream America, but they cannot resist their role within the constitutional order of American social life (Jackson 2005, pp. 164–69). In short, they are participating in a constant adaptation of classical Islamic legal and ethical norms to a socio-political system not of their own making, but which allows their participation within its own limits. Certain limits are clear, such as paying taxes. No Muslim who invokes their religious rights according to the Constitution is going to win a court case that allows them to no longer pay taxes. Other situations, such as the pilgrimage to Mashhad, require further clarification from the relevant authorities that govern the life of a Muslim citizen in the United States. That being the case, whether or not one prays facing Makkah, marries a Muslim, or eats pork is a matter of personal choice, at least as far as American law is concerned. The American Muslim experience affirms the contention of Mark S. Cladis that, “a democracy is not only a political arrangement; it is a cultural achievement sustained by the distinctive beliefs and practices of its citizens...with [their] abiding hopes, pressing needs, painful fears, strong attachments, and deep-seated beliefs about how to achieve well-being” (Cladis 2007, p. xiii).

The examples used herein have been economic on purpose, for it is hoped that future scholarship on this trajectory will address the extent to which American Muslims are, by default, capitalists. Because “capitalist” is a rhetorically loaded label that many would reject being applied to them, it has not been invoked until this point in order to avoid any unnecessary misunderstanding. Yet, if the economic and legal realities that have been described herein are correct, it would seem to be the case that the economic practices and legal policies that American Muslims tacitly support in turn help buttress global capitalism. If the Cold War is properly conceived as a global struggle between Communism and Capitalism as the dominant economic system (as opposed to simply a battle between two states, the USA and the USSR), then it would follow that the individualistic nature of American Muslim life is in part a product of a capitalist economic model that presupposes individual persons who can accumulate and dispose of private property according to their own desires (Frieden 2020). The economic lifeblood of American Muslim organizations is the IRS rule that allows Muslims to deduct up to 50% of their adjusted gross income (AGI) from their federal income tax returns. The state allowing private individuals to fund religion while taking tax dollars away from the state is arguably one of the most anti-Marxist public policies in the history of modernity. As such, it is meaningful to posit that American Muslims, when looked at from the *longue durée* of centuries of global conflict over the role of private property in society, are by default capitalists, whether or not they personally eschew the label of capitalist or not.

Nineteenth and twentieth century Muslim theorists in the Middle East had to respond to the encroachment of Euro-American capitalism in their lands, negotiating the ways in which they and their legal structures would respond to changing conditions (Tripp 2006). Yet, twenty first century Muslim communities in the United States already participate on a daily basis as economic actors in the world’s largest capitalist economy, as this paper has tried to demonstrate. Additionally, if that is the case, does an ethical discourse need to emerge, which explicitly tries to provide normative guidance regarding capitalism to American Muslims from within the discursive universe of Islamic legal and ethical traditions, and is that the same or different from the already developed industry of Islamic finance (Tunc 2022)? For example, is it possible to fashion reasoned responses to issues within the American labor movement from within the discursive ethical traditions of Islam (Dray 2011)? Could it be the case that American Muslims will come to believe that there is something fundamentally wrong with American settler-colonial expropriation of Indigenous land, leading to an ethical critique of American conceptions of real estate law?

Or does resistance to capitalist economic reality merely exist in the form of micro-projects, such as BBO, at the margins of economic life, or in individual decisions to utilize one's property for sacred purposes such as going on pilgrimage? Inshallah future scholarship will delve more deeply into the specificities of engagement between Islamic ethical discourse and American economic realities, both in terms of the continued creation and maintenance of businesses and non-profits/activist groups, as well as the choices of individuals self-consciously choosing to fashion their lifestyle according to Islamic law.

5. Conclusions

American economic and legal life has been built up over the preceding centuries by people in power generally uninterested in or oblivious to the Islamic legal and ethical tradition. American law explicitly regulates the realm of religious freedom, and at times has both denied citizens their religious freedom, as well as threatened and punished those citizens who have crossed red lines based on their religious convictions. At the same time, Muslim citizens have been free to make personal decisions and create collective institutions/projects that mirror their values that are inspired by the Islamic legal tradition. Post-9/11, they have continued to invest in the future of Islam in the United States, resisting and compromising with dominant realities in complex ways. Islamic legal debates in American Muslim counterpublics reveal the widespread tacit acceptance of the American legal system that dominates their lives, and raise important questions regarding the economic role Muslims play as members of the larger capitalist body politic. The future holds myriad possibilities for how Muslims in the United States can continuously and creatively respond to the civic realm, which structures their daily lives and organizational possibilities. How deep and wide the community is willing to go in articulating their ethical vision is up to the individual minds that make up the community, and remains to be seen. Regardless, how much the community will be able to act on any of their current and future *sharī'ah* convictions will surely not be a choice left up to them, but will instead continue to be circumscribed by the dominating power of American law.

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