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Comment on Possamai, Turner, Roose, Dagistanli and Voyce/5. "Shari'a" Practice, Informalization, and the Global "Umma"

Ente di afferenza:
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"Shari'a" Practice, Informalization, and the Global "Umma."

by Armando Salvatore

The burgeoning field of studies of religious activism in cyberspace has from its rise included a body of investigations on the legal advice sought by Muslims in the diaspora via websites providing online *fatwas* or *"cyber-fatwas"* [Mariani 2010]. In analogy with other such studies, the contribution of Possamai and his colleagues [2016] frames the enquiry in terms of how the phenomenon affects the positioning of Muslims both in national societies and on the global stage. Concurrently, these investigations delineate a tension between the degree of local or national integration of Muslims as a result of their participation in such initiatives vs. the global dispersion of their loyalties and authority patterns. This latter dimension has attracted particular attention within attempts to determine progress on the "reform" of Islam via the democratization of the tools to adjudicate on questions and disputes that Muslims may want to see regulated by *shari'a* law: a question that obviously affects Muslims worldwide, also in Muslim-majority societies, and not just those living in Western contexts of migration.

Possamai and his colleagues offer an analysis of three Australian case studies that allow us to better understand the unfolding of these tensions and their potential impact on local and national levels. The cases have the additional merit of showing that the websites providing targeted normative advice to Muslims on a variety of questions affecting everyday life and social relations often have a solid associative basis. The websites certainly benefit from being explored in their local nexus, which determines a first crucial level of authoritative appeal of an Islamic legal-advisory authority on the

potential audience and clientele. This question differs from the much more delicate issue of the potential status of *shari'a* in courts of law belonging to Western states, or of its acceptance for arbitration procedures [Turner and Arslan 2013 (2011)]. On the other hand, *shari'a* is historically and geo-culturally an extremely diversified normative field, not restricted to conventional definitions of what is "law," and not even to those that do not require legal enforcement as a condition for legal effectiveness. Far from being a "sacred law," and even less a body of law, *shari'a* is a rather large and protean discursive and adjudicative practice unfolding in history through a variety of regionally and locally diversified schools and approaches, all of them rooted in theological and even philosophical visions embracing ideas of justice, freedom and mercy inscribed in the relation between the creator and the creatures [Salvatore 2016]. Its multifarious components (and therefore the level of legal enforcement and the advisory dimension represented by *fatwas* or even by legal opinions that do not take the legal form of a *fatwa*) are often connected in ways that can only be determined by analyzing each particular situation. In the specific cases analyzed, the authors are correct that, even more in the absence of any type of recognition of *shari'a* law in Australia, the practice of cyber-*fatwas* might configure a "court" sui generis, in that it constitutes a parallel normative circuit to the one represented by the legal system proper functioning at the various levels, one that works via consensus and not through enforcement.

This brief note intends to provide some context, both with regard to history and to the contemporary world, to the enterprise of pinpointing the level of "territorialization" vs. "de-territorialization" of *shari'a* law and therefore refers to the article as part of a well-developing genre of studies. The key question concerns the type of balance that participation in online activities might entail, between strengthening the users' attachment to their local communities and to the national societies of which they are citizens or residents, and cementing their sense of belonging to a global Islamic *umma*. The article shows that this balance might change depending on the type of website, its local rooting, its activities and users. However, it also shows that the tension between the local and global attachments does not necessarily configure a zero-sum game. *Shari'a* in cyberspace might help delimit a specifically Islamic public sphere with life-orientational significance, and precisely for this reason the activities and communications analyzed can help solve problems of adaptation of blueprints of Islamic conduct and facilitate their integration within local socio-political – before than cultural – contexts, without disrupting a sense of belonging to a wider, global community.

This is what emerges in the short term, through the immediate and tangible effects that the sociologist can detect and evaluate. The wider and longer-term implications are much more opaque and empirical investigations can at best provide initial cues that should be complemented by an interpretive endeavor guided by the

methodologies of historical (and comparative) sociology, if necessary guided by social theory considerations. The main question here is whether activities related to *shari'a* in cyberspace feed into a growing sense of a globally Islamic sphere reflectively bypassing national legal frameworks without infringing on their functioning, and so reframing, more than simply reenacting, more traditional conceptions of the *umma* and patterns of authority therein. It is likely that such activities retrieve historical experiences of common belonging, while transforming them sensibly. Underlying these transformations are newer, rather abstract, often magmatic notions of a global *umma*, covering a sense of belonging superimposing social relations and public arenas matching nation-state-level patterns of governance and solidarity.

The big question, which involves empirical research but even more its historical contextualization and theoretical framing, is whether this process reenacts traditional trends or represents an entirely new phenomenon fed by new communication technologies and by the erosion of national citizenship worldwide. While the attention of Western observers is ever more captured by so-called global *jihadism* and transnational networks of migration, transnational Islam has over the last few decades included a myriad of forms of local, transborder and virtual interconnectedness, ranging from women networks through the development of new life-style patterns like those affected by cyber-*fatwas* (but also by an emerging fashion industry targeting pious Muslims) to the collective mobilization for global geo-political causes identified as genuinely Islamic (from Bosnia to Kashmir): all fields of activity that have attracted Muslim subjects and groups who might have shown an otherwise low level of politicization at the national level.

This is scarcely surprising, if we consider that, as suggested by a historical-comparative sociology of Islam, the "alternative modernity" resulting from civilizational visions historically produced within the Islamic ecumene did not emerge from the chrysalis of Westphalian-style types of state but responded to rather cosmopolitan presuppositions. These premises might resemble a kind of super-*shari'a* centered on flexible visions of the "common good" rather than merely deriving from the preoccupations of minute regulation of life conduct, which are mostly the object of cyber-*fatwas* and related online activities. This why the reconstruction of a global *umma* through a variety of means ranging from identity-building to regulation of life patterns and relations cannot be framed as a mere response to contemporary developments. It should be related to the historic spread of Islam as a set of normative ideals innervating a transcivilizational ecumene [Salvatore 2016]. The process warranted the predictability of transactions and patterns of mutuality and solidarity over long distances. This occurred for longer periods without the need for enduring centralized state authorities and corresponding governance, as they came to be formulated in

modern Europe in the Leviathan's shadow. Transnational fluxes where not restricted to big traders and elite scholars, but also open to smaller scholars, Sufis, and pilgrims. The main fiscal infrastructure of circulation was the *waqf*, the "pious endowment," an institution through which public services were funded, often in the absence of stable municipal institutions. The famed Silk Road, which provided interconnection to networks of circulation of people, goods and idea belonging to much a wider ecumene than the *umma* itself, relied on urban nodes largely funded by the *waqf* economy.

Peter Mandaville has argued that the contemporary reframing of belonging in the form of a translocal *umma* is by necessity polyglossic. The process adds new differences to the traditional diversity of Muslim communities and networks. It is "rhizomatic" even when ideas of authentic Muslim life conduct are reconstructed as maps empowering to cross new and uncharted socio-cultural territories, like Western societies of immigration. It is not only possible, but often a priority of the concerned Muslim communities and individuals, to integrate in this life-orientational endeavors the cultural and communicative patterns of the local and national contexts of citizenship and residence. Yet "integration" is not understood as a one-way road of mere acculturation [Mandaville 2001]. One could hypothesize that the propagation of a new *umma* reflects a postcolonial (and post-Westphalian) predicament that, far from simply reviving premodern patterns of globalization at work within the Afro-Eurasian civilizational sphere, contributes to fold them into the current international order.

This rather rhizomatic process and the level of heteroglossia it reflects [Bamyeh forthcoming] acquires an increasingly varied underpinning provided by a steadily growing infrastructure to which cyberspace decisively contributes. This is part of a wider trend through which new transnational public spheres emerge and stabilize, largely unbound by the homogenizing cultural premises of the national programs of modernity [Eickelman and Anderson 2003]. The effect is a decoupling of modernization from westernization that often leads to nest modern forms of self-cultivation and solidarity within specific civilizational belongings, along with their foundational symbols and discursive traditions. Mass cultural production often supports the process. It should be observed, however, that the internet has strengthened a process that had already characterized Islamic printing since the late Nineteenth century and resulted in the standardization and customization of models of life conduct and legal advice, whereby the variety of demands of regulation and identity have easily condensed into responses packaged in models *prêt a porter* [Anderson and Gonzalez-Quijano 2004].

Patterns and idioms of authority change in parallel to shifts in the configurations of forces depending on nation-state-level regulations, transnational migration, and the accessibility of new media. In some cases, however, older forms of authority (like in the case of the *mufti*, the provider of *fatwa*s) can mobilize these new resources

4

in order to restore traditional patterns of authority. These patterns, however, were themselves often functional to cement translocal connectedness and a flexible sense of common belonging, without unsettling local loyalties, and were therefore inherently bent on keeping the level of formalization of advice and adjudication under control. New media intervene on a search for practical knowledge, and often identity, which was never interrupted in the course of Islamic history and that has decisively affected the configuration of authority patterns. This has occurred in ways that have often contributed to keep the ratio of formalization vs informalization wide open, as it was always evident in the traditional legal dualism between the judge (the *qadi*) and the *mufti*. Connectedness and mobility have been always crucial for the translocal deployment of the *umma* in ways that have rarely created patterns of legal formalization, territorialization and institutionalization comparable with those enshrined in European Westphalian formations [Salvatore 2016]. The question of the social and cultural changes effected by *shari'a* in cyberspace can be therefore positively ascertained with the help of larger, historico-sociological contextualizations of the question of their innovative vs. conservative character, which can in turn produce fruitful comparative scenarios.

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Abstract: This commentary places the investigation of *shari'a* practice mediated by websites in the context of an ongoing tension: between the integration of Muslims in Western social contexts and the global dispersion of their loyalties. The piece argues that the process of reconstruction of a global *umma* through the regulation of Muslim life conduct cannot be framed as a mere response to contemporary developments. It should be related to the historic spread of Islam as a set of normative ideals innervating a transcivilizational ecumene. It concludes by suggesting that the degree of formalization vs. informalization of *shari'a* law should be determined by viewing *shari'a* practice as polyglossic and "rhizomatic": even more when it provides maps empowering to cross uncharted socio-cultural territories, like Western societies of immigration.

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