

Internet *Fatawa*: Challenging Tradition and Modernity in Women and Gender Issues

8.1 Introduction

One of the main arguments advanced in this book is the inherent dynamism of the Islamic legal traditions and their responsiveness to social realities through various juristic techniques, mechanisms and institutions. Historically, one such mechanism has been the *fatwa* (plural *fatawa*) through which an individual, a *qadi* (judge) or a ruler sought a non-binding response to a specific legal issue. Over time these opinions grew into an imposing body of materials, some of which was incorporated into legal textbooks and manuals for future reference. As a flexible vehicle of legal interpretation, *fatawa* are a reflection of evolving norms of Islamic law and society in language comprehensible to lay members of Muslim communities.

Today, in an age of print and electronic media, the institution of *ifta* (the act of issuing *fatawa*) has undergone significant transformation whilst retaining its core function. Beyond the mediums of newspaper, radio and television, *fatawa* in their latest manifestation are being issued by ‘Internet *muftis*’ to a growing, Internet-savvy population of *fatwa*-seekers. Discourse on Internet *fatawa* as an interpretative and pedagogical tool, as well as an emerging discursive space in a virtual environment, is an ever-expanding field of investigation.

The present chapter looks at the idea that, in employing a combination of traditional *ifta* tools as well as the virtual environment of the World Wide Web, Internet *fatawa* simultaneously challenge tradition and modernity. Tradition is being challenged by a fragmentation of authority and a democratizing of knowledge, making it more accessible to individuals and communities at the national, transnational and international levels; while modernity is being challenged in the way Internet *fatawa* are legitimating and reviving historical formulations of legal interpretations.

Drawing upon a selection of *fatawa* on women, gender and family law norms from selected Internet sites, this chapter makes a number of observations.¹ Most

¹ The opportunity to undertake research in this area initially arose through the CULCOM project in Oslo, with which I was involved in my position as Professor II at the University of Oslo. This resulted in two publications which informed this chapter. Building on primary research undertaken in 2009–10 and published as ‘Behind the Cyberspace Veil: Online *Fatwas* on

basically, the arrival of Internet *fatawa* has led to a dislocation of traditional forms of authority within the Islamic legal traditions. Internet *fatawa* exist within a virtual space, available within the privacy of the home, that makes women in particular more confident in raising questions which they would not pose face-to-face. The plurality within the Islamic legal traditions readily lends itself to providing answers through this new medium, and Internet *fatawa* are proving to be an enabling and empowering mechanism for Muslim women to decide for themselves how to act. The Internet has provided Muslim women with opportunities to inquire about issues not usually posed, due to societal norms on what may or may not be discussed in public. Women have, for instance, asked whether it is permitted to have breast augmentation surgery to please a husband, the nature of a relationship with a fiancé, whether or not one can engage in body piercing, and so on.² At the same time, though, this does not necessarily equate to Muslim women being 'liberated' from what might be called 'patriarchal' interpretations of Islamic law: it is evident that amongst the proliferation of Internet *fatawa* are those which would aim to channel women towards a particular interpretation of Islam, with an element of sermonizing on how a Muslim woman ought to conduct herself.

The study shows that, in their *fatawa*, *muftis* try to be inclusive of all schools of juristic thought in Sunni Islam, insofar as most of the *fatawa* proceed by laying out what the various schools say on the subject before pronouncing on what the *mufti* himself considers the best option. The Internet format is serving as a new, global space for discourse among Muslims of very different traditions and views, resulting in a cross-fertilization of ideas across the various schools of juristic thought. This is an important finding for the present research, since on most topics there is significant disparity and only rarely absolute consensus. (For instance, on dress code, some *muftis* say only the head covering is required; others say the face also ought to be covered, and so on.) The notable exceptions to this trend are the triple *talaq* and *tahlil* marriage, where all Sunni schools of juristic thought speak with one voice. These two 'uncomfortable' aspects of Islamic family law have been, and still are, widely considered unjust, and Muslims throughout history have been uncomfortable in 'owning' these legal concepts and have strategized against their implementation. The tension here is between what might, according to certain textual exegesis, be considered 'legally valid', and what is not permitted on the grounds that it is unjust.

Cyberspace has impacted on the development of the Islamic legal traditions by opening up to a vast audience the potential for enquiring about and responding to contemporary issues and the challenges of modernity: how, especially, Muslims should negotiate the 'necessity' of wearing Muslim dress in a non-Muslim country, or difficult questions on divorce or *tahlil* marriage.

Women's Family Rights', in Hellum, Ali and Griffiths, *From Transnational Relations to Transnational Laws*, pp. 125–46; and 'Cyberspace as Emerging Muslim Discursive Space?'

² Examples from the Internet *fatawa* are studied and set out below.

As Muslims seek online answers from within the Islamic legal traditions, Internet *fatawa* are proving to be a modern manifestation of the ever-present tension between ‘doctrinal’ law from above and ‘living law’ from below. Increasing access to the Internet is challenging the historical conception that only states and governments are the legitimate arbiters of legal disputes, and that the traditional sources of interpretative authority – the local *aalim* or the *imam* of the neighbourhood mosque – are the only repositories of Islamic law.

8.2 Contextualizing *Fatawa* in the Islamic Legal Traditions

What, then, is the normative status of *fatawa* across territorial borders and boundaries? As discussed in Chapter 1, ‘Islamic law’ (or, more broadly, the Islamic legal traditions) is an extremely complex web and hierarchy of sources and juristic techniques developed over time and in varied places. Most scholars are agreed on the hierarchy of sources – the Qur’an and Sunna as primary sources, and *ijma* (consensus) and *qiyas* (analogy) as secondary sources, along with a host of juristic techniques.³ Historically, *fatawa* collections show that, in issuing a *fatwa*, the *mufti* was mindful of employing these sources as well as local custom (*’urf*, *ta’amil*, or *adah*). *Fatawa* issued by *muftis* in diverse social and historical settings ‘served to stimulate the development of the *shari’a* from below, in response to the specific needs of particular Muslim communities’.⁴ In other words, customary practices were reflected through *fatawa*, bringing communities and the legal system (the formalized procedures of state, judiciary and legislature) closer together.⁵ It is important to recognize the connection and interface, both juristic and historical, between *ijtihad*, *’urf* and *ifta* as well as the nuanced distance between these three concepts.⁶ For present purposes, the point to be noted is that *fatawa* were, historically speaking, as much ‘bottom-up’ as ‘top-down’ law, reacting to real-life situations and practice – just as we can now observe in their Internet manifestation.

At its most basic, a *fatwa* is a response to a real or hypothetical question by a questioner. It reflects the personal interpretation of the *mufti*, based on his personal opinion and interpretation of the religious texts, as well as the rulings and *fatawa* of earlier scholars on the subject. The *fatwa* is a non-binding, advisory opinion of a *mufti* to an individual questioner, who may be a *qadi* (judge), a private individual, or an institution,⁷ and consists of a question (*sua’al*, or *istifta*) together with an answer (*jawab*). The *fatwa* is perceived by many as a multi-functional ‘meeting point between legal theory and social

³ Including *ijtihad*, *taqlid*, *ikhthilaf*, *takhhayur*, *talfiq*, *darura*, *istishab*, *istihsan* and *sadd al-dharai*.

⁴ W. Hallaq, ‘From *Fatwas* to *Furu*: Growth and Change in Islamic Substantive Law’, in *Islamic Law and Society* 1 (1994), 29–65.

⁵ Masud, Messick and Powers, *Islamic Legal Interpretation*, p. 4.

⁶ Although not the focus of the present chapter, there is debate as to the qualifications of *mufti* and whether they ought also to be qualified as *mujtahid*.

⁷ Masud, Messick and Powers, ‘Muftis, Fatwas, and Islamic Legal Interpretation’.

practice’.⁸ These include employing *fatwa* as a legal tool in assisting the adjudication process, as a social instrument in the form of questions by persons in the community, as inputs to political discourse in relation to an act of state or government (either within the state or vis-à-vis another state or states), or as a device for reform (where a *mufti* presents his viewpoint for reform in existing practice). *Fatawa* historically ‘formed the vital link between academic theories of pure scholarship and the influences of practical life, and through them the dictates of the doctrine were gradually adapted to the changing needs of Muslim society’.⁹ Masud, Messick and Powers are of the view that ‘the accumulation of fatwas issued by muftis in diverse social and historical settings served to stimulate the development of the shari’a from below, in response to the specific needs of particular Muslim communities’.¹⁰ Hallaq, too, is of the view that the interplay between substantive Islamic law (*furu ul fiqh*) and *fatawa* nourished a vitality and responsiveness that was central to the continuing dynamism of Islamic law and Muslim societies.¹¹

The institution of *ifta* has had a profound effect upon the development of the Islamic legal traditions.¹² Voluminous compilations of the *fatawa* of reputable *muftis* have established a place for themselves as definitive legal texts and made clear the connection between this knowledge and the evolution of Islamic law.¹³

Our enquiry suggests that the juridical genre of the *fatwa* was chiefly responsible for the growth and change of legal doctrine in the schools, and that our current perception of Islamic law as a jurists’ law must now be further defined as a *muftis’* law. Any enquiry into the historical evolution and later development of substantive legal doctrine must take account of the *mufti* and his *fatwa*.¹⁴

⁸ A. Caeiro, ‘The Shifting Moral Universe of the Tradition of Ifta: A Diachronic Study of Four Adab-al Fatwa Manuals’, *Muslim World* 96(4) (October 2006), 661.

⁹ Coulson, *History of Islamic Law*, p. 142.

¹⁰ Masud, Messick and Powers, ‘Muftis, Fatwas, and Islamic Legal Interpretation’, p. 4.

¹¹ Hallaq, ‘From Fatwas to Furu’.

¹² English-language literature based on historical records of *fatawa* is on the rise and offers rich insights into the role of this institution in the development of the Islamic legal traditions. For an excellent collection of case studies in the premodern, colonial and contemporary era, see Masud, Messick and Powers, *Islamic Legal Interpretation*; D. Powers, ‘Kadijustiz or Qadi-Justice? A Paternity Dispute from Fourteenth-Century Morocco’, *Islamic Law and Society* 1(3) (1994), 332–66; J. Tucker, ‘Muftis and Matrimony: Islamic Law and Gender in Ottoman Syria and Palestine’, *Islamic Law and Society* 1(3) (1994), 265–300; K. A. Miller, ‘Muslim Minorities and the Obligation to Migrate to Islamic Territory: Two Fatwas from Fifteenth-Century Granada’, *Islamic Law and Society* 7(2) (2000), 256–85; B. Stowasser and Z. Abul-Magd, ‘Tahlil Marriage in Shari’a: Legal Codes, and the Contemporary *Fatwa* Literature’, in Haddad and Stowasser, *Islamic Law*, pp. 161–81.

¹³ Some of the better-known *fatawa* collections include *Kitab al-Nawazil*, compiled by Abu Layth al-Samarqandi; *Majma’ al-nawazil wa’l-waqiy’at* by al-Natifi; *Fatawa Qadikhan* by Qadikhan; *Fatawa Ibn Rushd*; *Kitab al-Mi’yar* by Ahmad al-Wansharisi; and *Al-Fatawa al-Alamgiriyya* by Shaykh Nizam of Burhanpur.

¹⁴ Hallaq, ‘From Fatwas to Furu’, p. 65. For a good historical and comparative account of the role of *ifta*, particularly in its state-linked manifestation, see J. Skovgaard-Petersen, ‘A Typology of State *Muftis*’, in Haddad and Stowasser, *Islamic Law*, pp. 81–98.

The substantive observation here for our purposes is that *fatawa* have always been an essential part of a ‘genuine’ and evolving Islamic law.

The institutional forms taken by the *mufti*-ship have historically been diverse, too, just like the requirements as to who could be a *mufti*, the requisite qualifications, and the relationship between *mufti* and questioner. There are, indeed, specific compilations elaborating on the above questions.¹⁵ An indicator of the high standards of ability, integrity and competence required of a *mufti* is that some early Muslim scholars were of the view that in order to be a *mufti* one had to be a *mujtahid* (i.e. one who can make *ijtihad*). In other words, a *mufti* ought to be capable of both *ijtihad* and *fatawa* – a tall order, and a consideration that poses challenges to Internet *fatawa* insofar as they are a modern manifestation of *ifta*.

8.3 Internet *Fatawa*: Challenging Tradition and Democratizing Knowledge

From its starting point as an inherently one-to-one response by a *mufti* to a questioner, the *fatwa* in its Internet incarnation has gripped the attention of many different constituencies.¹⁶ Muslim *fatwa*-seekers, as well as academics, social and political institutions, states and governments, and organizations watching over cyberspace are engaged in exploring websites issuing *fatawa* on a wide range of subjects. Enquiry into various aspects of what Bunt terms the ‘cyber-Islamic environment’¹⁷ forms a burgeoning field of study.¹⁸ As a socio-legal advisory process, the institution of *ifta* has undergone a transformation in being applied in cyberspace. El-Nawawy and Khamis note that Internet technology leads to audience segmentation, moving people away from a unitary and coherent public sphere and closer to scattered, isolated and fragmented ‘public sphericules’.¹⁹ The mode of transmission of Internet *fatawa* has changed the *mufti*-questioner relationship from being face-to-face and

¹⁵ See Masud, Messick and Powers, *Islamic Legal Interpretation*, p. 333, note 13, for a list of some of the treatises addressing this matter.

¹⁶ Cyberspace has, for example, been used by individuals and institutions to enhance their visibility and to disseminate information about Islam and Islamic law, as well as by radical organizations seeking to publicize their political agenda, including recruiting for illegal activities. Watching over such Internet sites is also of integral interest to the security services.

¹⁷ G. Bunt, *iMuslims: Rewiring the House of Islam* (Chapel Hill: University of North Carolina Press, 2009), p. 1.

¹⁸ Among the many studies, see in particular G. Bunt, *Islam in the Digital Age: E-Jihad, Online Fatwas and Cyber Islamic Environments* (London: Pluto Press, 2003); M. El-Nawawy and S. Khamis, *Islam Dot Com: Contemporary Islamic Discourses in Cyberspace* (New York: Macmillan, 2009); Black *et al.*, *Modern Perspectives*; A. El-Tahawy, ‘The Internet Is the New Mosque: Fatwa at the Click of a Mouse’, *Arab Insight: Emerging Social and Legal Trends* 2(1) (2008), 11–19; M. Furber, ‘Ranking Confidence in the Validity of Contemporary Fatwas and Their Dissemination Channels’, Tabah Foundation Analytic Brief No 13 (2013) (available at tabahfoundation.org); V. Sisler, ‘The Internet and the Construction of Islamic Knowledge in Europe’, *Masaryk University Journal of Law and Technology* 1(2) (2007), 205–18.

¹⁹ El-Nawawy and Khamis, *Islam Dot Com*, p. 72, citing Gitlin.

one-to-one to being distant, impersonal and between one speaker and many possible hearers.

8.4 The Form, Content and Features of Internet *Fatawa*

One interesting aspect of Internet *fatawa* is that they faithfully follow the traditional prototype. First, the *mufti* recites the name of Allah and His Prophet and indicates that this opinion is delivered from an Islamic perspective, drawing upon Islamic sources, and to the best of his knowledge and competence. The substance of the *fatwa* then sets out the opinions of other jurists and offers evidence of the plural norms operating within the Islamic legal traditions, after which the *mufti* sets out his specific answer. The *fatwa* closes with an acknowledgement that this opinion is not a claim to the only truth, as only Allah knows best. (This apparently religious invocation can also be construed as the *mufti*'s 'disclaimer': he has done his best within the realm of human reason, but there might be other truths that he has not been able to extract given his knowledge of the legal sources.)

Cross-fertilization of ideas, opinions and arguments drawn from the four juristic schools of Sunni thought are a common feature of Internet *fatawa*.²⁰ Thus a single *fatwa* will encapsulate and recall viewpoints of a number of *muftis* from various parts and institutions of the Muslim world as well as scholars of the Muslim diaspora.²¹ (It is worth mentioning here the clear difference between the plurality of opinions cited in Internet *fatawa* and the relative legal insularity of *fatawa* issued by the numerous Muslim *Sharia* Councils operating in the UK, which do not appear to cross-fertilize their decisions with those of similar institutions in other parts of the world.²²)

Internet *fatawa* highlight the many shades of opinion across the various juristic schools of thought. The range of opinions offered on the same subject is very broad, and close attention is paid to this by young Muslims living in the West. For instance, in the case of the 'correct' dress code for women, advice ranges from just a headscarf, to the *niqab* face veil, to a full-body covering including hands and feet. On whether it is sufficient for women to use sporting helmets in place of headscarves, on whether it is permissible to take the *hijab* off to pursue education in countries where this is banned, and suchlike questions, *fatawa* opinions vary widely, reflecting the diverse opinions of scholars and commentators of the Qur'an and *ahadith*. So which opinion ought a questioner to adopt? Will questioners respect the variety and diversity of opinions as a 'positive' that offers choices and options, or will they tend to migrate toward a rather more conservative norm? For many young, Internet-savvy Muslims living in the West, their search is increasingly for a 'pure', 'pristine' Islam, 'uncontaminated' by the

²⁰ The present study is confined to *fatawa* rendered by Sunni *muftis*.

²¹ Stowasser and Abul-Magd, 'Tahlil Marriage in Shari'a', p. 162.

²² See the discussion in the chapter on *Sharia* Councils in this book.

cultural Islam of their parents. In the global context, this cyberspace environment ‘has contributed to “essentialism” and “homogenization” of religion’,²³ quite alien to the Islamic traditions. So we can observe inherently contradictory trends – on the one hand, Internet *fatawa* are setting out a broad range of juristic opinions for a global audience, yet at the same time they are narrowing the field in pointing toward a more restrictive conclusion as to the opinion that ought to be adopted.

8.5 Internet *Fatawa* on Questions of Women and Gender

The findings of this chapter are based on a study of *fatawa*-issuing websites initially undertaken in 2009 and followed up in 2014, and triggered by the phenomenal proliferation of *fatwa* websites and Internet *muftis*, and by increasing access to and interest in the Internet among Muslim communities. In 2009, three websites – islamonline.net, islamonline.com, and islamtoday.com – were chosen. During the follow-up research in 2014, onislam.net was added. All four sites state their main objective as information dissemination on Islam and Muslims, all include a dedicated section for *fatawa*, and all are Sunni (the Shia have a very different structure for seeking *fatawa*, which is beyond the scope of this study).

- (i) islamonline.net has offices in Doha and Cairo. Its stated aim is ‘to provide information about Islam and its civilizations, the universe and its changes, current affairs and their analyses, and general information and services that one cannot do without in the 21st century’. It ‘aims to present the unified and lively nature of Islam that is keeping up with modern times in all areas’. It asserts that it engages ‘experts from all over the world and from all religions, ethnicities, and cultures specializing in politics, economics, the media, sociology, technology, the arts, and other fields’. The site regards its audience as being ‘all people, Muslim and non-Muslim, regardless of geographic boundaries, race, religion, language, background, culture or gender’, and sees its approach as ‘balanced’, ‘adopting the middle ground of Islam, avoiding extremism or negligence, rejecting deviant or eccentric opinions’. The site appears open to sharing information regarding the specialists who sit at the keyboard, and has a commercial aspect which is visible from the advertisements displayed on its homepage.
- (ii) Owned and operated by Aljazeera Publishing, islamonline.com is based in Dubai and describes itself as ‘the leading and original Islamic portal on the Internet’ and ‘the number one source for Islamic content in the Islamic world’. Its stated objective is ‘to portray a positive and accurate picture of Islam to the world as well as providing support services for Muslims as

²³ Sisler, ‘Internet and the Construction of Islamic Knowledge’, 211.

well as for non Muslims wishing to explore Islam'. The site carries a large number of advertisements, in particular on jobs in the Middle East.

- (iii) islamtoday.com has since 2001 been directed by Sheikh Salman al-Oadah, an influential Saudi cleric, Islamic scholar and media personality, whose influence comes from 'his innovative reach in the Muslim world propagated via islamtoday.com and his persistent efforts at ministering to the needs of the global Muslim community'. Sheikh Salman is described as an 'advocate of peaceful coexistence' and an 'ambassador of non-violence' who 'is outspoken about the importance of inculcating love and mercy as opposed to violence in the daily life of Muslims', and he notably rebuked Al-Qaeda and Osama bin Laden over their use of violence. islamtoday.com provides resources in English, Arabic, French and Chinese and 'brings together a diverse range of Islamic scholars and educators to provide guidance in Islamic thought'. The site notes that Sheikh Salman's work 'has far-reaching impact in an age when religion is spread through media and technology'. The site has no advertisements, and appears to be purely of an information-sharing and pedagogical nature. It has not proved possible to identify its offices' physical location.
- (iv) onislam.net was launched in 2014 by the founders of islamonline.net after a disagreement with its Qatari financiers. In the view of onislam.net, the original islamonline.net site

had enjoyed editorial independence since its birth in 1999 under the auspices of prominent scholar Sheikh Yusuf Al-Qaradawi, by separating its editorial content from its funding. The equation changed a year ago after the new board started interfering in the editorial process and showing discomfort with the moderate message of the website.

onislam.net was launched under the umbrella of an Egyptian non-profit civil organization for media development.

It seeks to review and renew contemporary Islamic discourses and help reach common grounds among people of different faiths and cultures. onislam will have a special focus on the institution of the family and the challenges facing Muslim families, especially in non Muslim-majority countries.²⁴

There are, inevitably, commonalities shared by all four sites as well as subtler differences. Addressing a global audience is a common feature, and all highlight news items relating to Muslims worldwide. None of the four restricts itself to the viewpoint of any single juristic school. In fact, all four adopt what is in their view an inclusive, holistic, middle-ground approach to Islam. Whilst I generally agree that the approach is balanced, streaks of patriarchal, male dominance are often to be seen. All four offer users the option of reading contents in, at a minimum, Arabic or English and identify the theme(s) they wish to seek

²⁴ 'IslamOnline Founders Launch OnIslam', onislam.net, 9 October 2010.

guidance on. Of course, accessing the Internet and being able to communicate in Arabic or English are limiting factors of this process, ruling out all those Muslims who are unable to do either.

When we come to examine the *fatawa* presented on the four sites, they cover an extremely wide range of issues, but what stands out is the fact that they are almost all concerned with what we might call issues of women and gender. There are, for example, fewer *fatawa* on issues relating to mercantile law, Islamic finance or criminal law. Guidance on Islamic finance has been institutionalized through Islamic finance advisory boards in Muslim and non-Muslim countries, which may be the reason for the few questioners on the interest sites studied. Subjects of Internet *fatawa* and the numbers also depend upon particular national and international situations. So, for instance, during the two Iraq wars, as well as the invasion of Afghanistan, many *fatawa* came into the public domain from Muslims seeking guidance on whether this situation called for *jihād*.²⁵ Instead, we are overwhelmed with topics such as the interactions with those who are *mahram* and non-*mahram*, the etiquette of social interaction between the sexes (both online and face-to-face, and whether engaged or not), women's education, women's employment in a mixed environment, the parameters of love between opposite sexes, the pre-marital relationship among engaged couples, the pre-consummation relationship between those who have been married by *nikah*, the domain of activities for girls and women and their overall status within the family, negotiating and resolving conflicts between outdoor activities and responsibilities within the home, the marital rights of husband and wife, the right to divorce in different circumstances (e.g., if the wife refuses to wear *hijab* or *niqab*), the right of a wife to seek divorce if her husband does not observe religious dictates, women's consent and guardians' authority in matters of marriage, women's participation in religious ceremonies, women's role in politics, personal bodily matters including menstruation and its effect on sexual and religious matters, the right to abortion, the due spacing between children, women's involvement in sexual practices such as fornication and masturbation, a husband's obligation to provide sexual satisfaction, female circumcision and its validity in the Islamic legal tradition, women employing artificial or medical means to enhance their beauty, paternity testing, breast augmentation, body piercing, and, finally, differences in the legal status of men and women – but three topics in particular stood out because of the frequency with which they were raised: (i) the issue of 'Islamic' dress in a non-Muslim country, (ii) the triple *talaq* and (iii) the question of the necessity of a *tahlil* marriage between divorce and remarriage. These are set out by frequency in Table 8.1.

It must be stressed that these figures are only an approximation of the total number of *fatawa* on these three major topics. It is in fact impossible to tease out the *fatawa* into discrete units: they were handed down across a ten-year

²⁵ For details see Ali, 'Resurrecting Siyar through Fatwas?.'

Table 8.1 Selected Internet *fatawa* by frequency

Dress code	Divorce	<i>Tahlil</i>	Total
156	62	63	281

period from 2004 to 2014, and any given *fatwa* was liable to be presented more than once and, in effect, cut and pasted and replicated across multiple websites to support the advice given by different *muftis*. There was, indeed, significant overlap and repetition of *fatawa* even on the same site.

In the initial phase of the research, a list of approximately 100 *fatawa* relating to the three major topics was developed, rising to 281 in 2014. These were examined in order to compile a summary of the issues raised, to ascertain similarities between the questions, to highlight trends and patterns in the questions and the responses, to identify the countries from which the questions were being asked, and, finally, to discern which were the most ‘burning’ questions. As to the identities of the interlocutors – the *mufti* and the *fatwa*-seeker (or *mustafti*) – though we can never be certain of anybody’s true identity in an online context, we can at least say who they claim to be, if we take them at their word. Historically it was a well-known *mufti* or *aalim* who was the sole source of authority (validated often by a *qadi* who used the *fatwa* as a basis for his decision). In this study, each of the *fatawa* either gave the name and credentials of the *mufti* or (in the case of onislam.net) simply stated that they were a ‘consultant’. Credentials consisted of graduate of Al-Azhar University, Cairo, Egypt; professor of Shari’a, Cairo University; *imam* of Calgary mosque, Alberta, Canada; and former professor of King Saud University, Riyadh, Saudi Arabia. I did not come across any female *muftis* in this sample, although some websites do appear to have female advisers who communicate the *fatwa* to the questioner. As for the *fatwa*-seekers, again, the Internet context makes it impossible to determine accurately their provenance. Many do not give a location, while others state or imply that they are in a non-Muslim country. Overall, the strong impression gained is that the majority are based in English-speaking diaspora nations such as the UK, the US, Australia and Canada, but also other Western countries such as France and Germany, and, to a lesser degree, Muslim nations such as Egypt, Kuwait, Nigeria, the Maldives, India, Pakistan, Egypt and Saudi Arabia. Since only the name and place of the questioner (at most) appear on the *fatawa*, it was not possible to develop a detailed profile by socio-economic level or by religious and political convictions, etc. Although, by virtue of the Internet’s very nature, it was impossible to ascertain *definitively* the origin, gender, etc. of the questioner or the identity of the respondent, the vast majority (95 per cent) of questioners self-asserted as women. Despite this acknowledged limitation, there at least appeared to be a spread of *fatawa* whose questioners were from many different countries, and consequently the questions and responses encompassed a rich

spectrum of subjects and themes broadly falling into the area of family law, women and gender.²⁶

8.6 Muslim Women's Legal Position as Seen through the Lens of Internet *Fatawa*

The issue of the position of Muslim women within the Islamic legal tradition generates complex and diverse understandings of the primary and secondary sources of Islamic law discussed above. Concentric circles of plural normative frameworks based upon cultural, traditional, socio-economic and political practices inform Muslim women's status and rights. In recent decades a further circle has been added – the demands of life in a non-Muslim diaspora and as members of transnational families and communities.²⁷ Demands on the Islamic legal traditions to interpret Muslim women's status and entitlements in this changing global environment are, unsurprisingly, increasing.

Based on the Qur'an and Sunna, the position of Muslim women is one of complete equality and dignity in the ethical, moral and reward/punishment paradigm (*ibadaat*). At the level of socio-economic, political and family life (*muamalaat*), however, they are placed at a lower hierarchical level, in the belief that women are in need of protection. It is this hierarchy of status that continues to inform perceptions regarding Muslim women and their place in society, both in traditional and in Internet *fatawa*. I have elsewhere presented a detailed categorization and hierarchization of women's rights in Islam, arguing that these categories are fluid and evolving and not set in watertight compartments.²⁸ The *fatawa* discussed in the present chapter bring this fluidity into relief by using language and terminology that may be interpreted as discriminatory by some and protective and/or corrective by others.

Two areas appear to be foremost in the minds of questioners seeking *fatawa* – norms regulating a Muslim woman's dress and demeanour, and her rights and entitlements in family life (mostly vis-à-vis her spouse). This is hardly surprising, as both are fertile grounds for an interpretative discourse, placed as they are at the intersection of culture, tradition and religion. In specific terms, the laws relating to Muslim women's status and entitlements and how she is required to conduct herself draw largely upon just a few verses of the Qur'an. The focus of contestation arises from literal, patriarchal and historical understandings of these verses, arguably creating and upholding a hierarchy on the basis of sex:

- (i) 2:228: 'Divorced women shall wait concerning themselves for three monthly periods. Nor is it lawful for them to hide what Allah hath created

²⁶ These are not presented in order of importance or frequency of *fatawa* pronounced but rather as they were encountered during the study.

²⁷ See the discussion in Chapter 7.

²⁸ Ali, *Gender and Human Rights*, in particular Chapter 2.

in their wombs, if they have faith in Allah and the Last Day. And their husbands have the better right to take them back in that period, if they wish for reconciliation. And women shall have rights similar to the rights against them, according to what is equitable; but men have a degree [of advantage] over them.' This 'degree [of advantage]' has been commonly interpreted as alluding to the superior right of the husband to divorce his wife.

- (ii) 2:282: '... and get two witnesses, out of your own men, and if there are not two men, then a man and two women, such as ye choose, for witnesses, so that if one of them errs, the other can remind her'. In this verse (which establishes procedures for transcribing contracts and obligations into writing), women have been prescribed as witnesses, but with an evidentiary value half that of men.
- (iii) 4:3: 'If ye fear that ye shall not be able to deal justly with the orphans, Marry women of your choice, Two or three or four; but if ye fear that ye shall not be able to deal justly [with them], then only one, or [a captive] that your right hands possess, that will be more suitable, to prevent you from doing injustice.' This 'polygamy verse' is taken as permitting a man to marry more than one wife. Progressive, reformist and feminist interpretations of the verse look, however, at its context and argue that it is an exception rather than a rule. Verse 4:129 can also read together with this verse to make the 'right' to polygamy more restrictive.
- (iv) 4:11: '... To the male, a portion equal to that of two females: if only daughters, two or more, their share is two-thirds of the inheritance; if only one, her share is a half. For parents, a sixth share of the inheritance to each, if the deceased left children; if no children, and the parents are the [only] heirs, the mother has a third; if the deceased left brothers [or sisters] the mother has a sixth'. This verse sets out some of the rules on inheritance, under which women are allocated half-shares in comparison to men standing in similar relationship.
- (v) 4:34: 'Men are the protectors and maintainers of women, because Allah has given the one more [strength] than the other, and because they support them from their means. Therefore the righteous women are devoutly obedient, and guard in [the husband's] absence what Allah would have them guard. As to those women on whose part ye fear disloyalty and ill-conduct, admonish them [first], [Next], refuse to share their beds, [And last] beat them [lightly]; but if they return to obedience, seek not against them means [of annoyance].' The contents of this verse are perhaps the most challenging for Muslim women. Despite a number of woman-friendly interpretations canvassed over the years to 'blunt' its impact, the reality is that it has entrenched patriarchy and relegated women to an inferior position.
- (vi) 24:30–1: 'Say to the believing men that they should lower their gaze and guard their modesty: that will make for greater purity for them . . . And say

to the believing women that they should lower their gaze and guard their modesty; that they should not display their beauty and ornaments except what [must ordinarily] appear thereof; that they should draw their veils over their bosoms and not display their beauty except to [those relations set out in detail]; and that they should not strike their feet in order to draw attention to their hidden ornaments.' This verse sets out norms regulating dress codes. Highly contextual in nature, they are taken literally by the vast majority of Muslims who consider covering the head, neck and chest to be compulsory for Muslim women, and, further, that an outer covering must be worn to ensure coverage down to the feet.

- (vii) 33:59: 'O Prophet, tell your wives and your daughters and the women of the believers to bring down over themselves [part] of their outer garments. That is more suitable that they will be known and not be abused?'

A number of scholars have challenged restrictive interpretations of these verses, adopting the position that what have become the only benchmark for women's position and rights in Islam are in fact susceptible to multiple interpretations and are contested terrain.²⁹ The questioning and clarifications linked to these verses continues unabated across Muslim communities in transnational and international settings, as is evident from the Internet *fatawa* presented below.

8.7 Women's Dress Code and Demeanour

In the present study, the largest single number of questions on all the websites studied related to clarification on Muslim women's dress and demeanour. In the first phase, of the 100 *fatawa*, fifty-six related to this subject. In the second phase, a similar trend brought up a further 100 *fatawa*.³⁰ These *fatawa* can be subdivided into three areas: (i) wearing the *hijab*, and why; (ii) whether the *niqab* is obligatory, and whether a husband may require his wife to wear it (or not wear it); (iii) special dispensation when the *niqab* is likely to conflict with the law in non-Muslim jurisdictions. To provide a feel for the questions initially raised, a sample will suffice:

'My question relates to *hijab*; some people claim that *hijab* poses a restriction to women's liberty. What is your opinion on that?'

'This issue of *hijab* has reached a very serious stage. Could you please clarify whether *hijab* is a religious symbol or not?'

'Why should women only cover their body and face, even on a hot day? How is it possible for women and not for men?'

'How does Islam respect a woman by letting her wear *hijab*? Could you please give me the answer in a logical and rational way?'

²⁹ F. Rehman, A. A. An-Na'im, R. Hassan, A. Wadud, F. Mernissi, A. Barlas, Z. Mir-Hoseini, A. Al-Hibri, L. Ahmed, H. Afshar, S. Haeri and S. S. Ali to name a few.

³⁰ The number of overall *fatawa* available on this subject is far higher: onislam.net alone lists about 130 *fatawa* on 'Dress Code & Adornment' given between 2004 and 2014.

‘*Hijab* (as a dress code) for women in Islam, does it concern women only? Do men have nothing to bear in this? Secondly, I hear a lot of confusing things about *hijab*. While some say one does not need to cover the hair, others say that one must also cover one’s face and hands besides the rest of the body. If a person refuses to cover her head, can others call her a non-Muslim simply for baring her head?’

Let us, then, look at one question and its answer: ‘I am a Muslim teenager who is considering wearing *hijab*. However, I’d like to ask a few questions regarding this topic. What is the purpose of wearing *hijab*? Are there any advantages or benefits?’³¹ The question is answered by Sheikh Riyadh al-Musaymiri, a professor at Al-Imam University in Riyadh, as follows:

I am glad to read about your concern for what would please your Lord, though you are young. May Allah bless you. I hope that, by the will of Allah, you will be a pious Muslim woman throughout your life and keep seeking knowledge and endeavoring to please your Lord. Regarding your questions, these are the answers:

1. The purpose of wearing *hijab* is, first and foremost, out of obedience to Allah and His Messenger (peace be upon him). Allah says: ‘And when you ask them for anything, ask them from before a screen.’ One of the main objectives of *hijab* is to safeguard women from the gazes of people of weak morals and from those seeking to indulge in unlawful worldly pleasures. 2. The benefits of *hijab* are numerous. In addition to what I have already mentioned above, it protects the girl from being physically attacked or her reputation being injured. The Muslim woman is distinguished from the impious woman, for which she deserves respect. Last but not least, *hijab* also saves men from undergoing trials and temptations due to the beauty of women, just like the rules for modest male dress are there to save women from undergoing trials from the temptation of provocatively dressed men. Modest dress must be observed by men. Men are not allowed to wear shorts or wear tight fitting clothes. One of the reasons for this is that it protects women from temptation. May Allah protect you and guide you.

On the subject of whether a Muslim wife ought to wear the *hijab* on her husband’s orders, the questions raised included the following, from a man: ‘What should I do if my wife refuses to cover her hands, even though I asked her to do that from the beginning, then I commanded her to, but she refuses? What do you say if I threaten her with divorce?’ The reply comes:

Allah has enjoined woman to be obedient to her husband, and has made men *qawwamun* (protectors and maintainers) of women. They are supposed to direct and look after women as a leader directs and looks after his people, because of the physical and mental characteristics with which Allah has distinguished them, as well as the financial duties that he has enjoined upon them. Allah says ‘Men are the protectors and maintainers of women’ (Verse 4:34). You can seek help in

³¹ See en.islamtoday.net/node/1130.

admonishing her and advising her through useful tapes and books which speak of the obligation of *hijab* for Muslim women . . .

A female questioner asks,

I wear *hijab* but do not wear *niqab*, my husband says that if I do not start covering my face then he will divorce me. He says that whatever he asks me to do I should do. I do not want to disobey my husband but to wear *niqab* would cause me great hardship and sadden me deeply.

The reply comes:

So you have to fear Allah in this matter and respond to two commands: the command of Allah and the command of your husband. Undoubtedly this will be very good for you. This matter will make your husband happy and bring happiness to your home. Feelings of difficulty will pass if you are patient and get used to it . . . You will be responding to Islamic commands and the command of your husband which is in accordance with the laws of Allah . . .

Quite different to these rather conservative responses, though, is that to a question from a woman living in the US. She sets out her story in a long email: married less than a month earlier, her husband wants her to wear the *niqab*. He has shown her Islamic teaching videos to support his request, and cites verse 33:59 as evidence. He is very upset and angry at her refusal and has said he will not see her until she wears it, even though before marriage he had said he would not force her. She is now a social worker, and when she previously wore a *niqab* it only created problems in a society where it is not the norm, and in an area with scarcely any other Muslims. She knows his children will be teased and bullied.

The response:

at your age and experience, 'it is NOT to do . . . ' what your husband is imposing on you. You are still very young. You are still at the very start of your marriage. No kids in the marriage. The man promised you before marriage that he will not 'force' you to do it. Then, why would you want to start your life by teaching him that he can always change his word by 'punishing you' whenever he wants to get away with what he wants?! . . . Your husband, at a certain stage of time, when he was not yet your husband, wanted to become your husband and to have you as a wife. At that point of time, he gave you a promise. Then, now, today, when you are his, he completely forgets about that promise and imposes on you his desire by all means. He tries to convince you. He emotionally tries to affect you. He religiously tries to convince you by giving you videos and scholarly opinions. Then, he decides to punish you by staying away from you for three months! What kind of marital dialogue is this?! This is his attitude and 'policy' in solving a marital conflict after being 'recently married'. Ask yourself, how will he reach his goals after nine years of marriage? How will he resolve any of your conflicts when your opinions differ in relation to which school you take the kids to?

The *mufti* admits that he cannot give a straightforward yes or no answer, but advises that she should look carefully at her marriage and how she would like it to continue. As for the *niqab*, it is a choice which has to be made solely for the sake of Allah. He acknowledges that the issue is contested between scholars:

Some agree that it is obligatory, some agree that it is preferred and some see that it is simply cultural and has nothing to do with religion. In this answer, I will not provide you a *fatwa* whether it is obligatory or not. This issue has been long discussed between great scholars and you can make your own research.

In language which would not be out of place in the advice column of a women's magazine, he reassures her,

Being a good wife does not mean that he imposes on you what he promised he would not, particularly what he has previously promised that he won't. But, being a good wife means that you succeed in making him happy . . . Let him know that you love and respect him. Keep your feelings, love, smile and respect for him. Talk to him softly and ask him to keep his promise. Tell him how heavy you feel this step is for you now and promise him to be more conservative with strangers. Tell him that you love him and that you want to continue your life with him, but that you don't see that you will be a faithful Muslim if you do it now. Promise him to read and study more about *niqab*. If you are ever convinced, then do it for the sake of Allah. If you are not, then never do it. If your husband ever takes it to the edge, that you will have to choose between him and *niqab* on one side, or letting go completely on the other side, then it will be your choice. Try never to take it that far. But if it is ever there, then think carefully if you really want to continue life with a man who solves marital conflicts through this attitude.

A third *fatwa* on dress raises issues of multiple identities, divided loyalties and legal obligations. The question is posed by an American Muslim who has heard about the case of a Muslim woman suing the State of Florida because it asked her to remove her *niqab* for an ID photo. It had been argued before the court that her *niqab* could only be removed if she were dead:

What would you say to Muslim women who live in the West generally and in the US particularly about the issue of *niqab*? Is it so difficult to remove the *niqab* that she must file a case against the state, which doesn't even require her to uncover her hair, as some states do require for the drivers' license?

The response is balanced:

As for your question, bear in mind that the majority of imams – including those of the four schools of *fiqh* as well as others – hold the opinion that a woman is not obliged to cover her face and hands. However, a group of scholars, the majority of whom belong to the Hanbali School, teach that a woman must cover her face and hands as well. It goes without saying that Muslims precede others in keeping the public interest and security of the nation. Therefore, if the law governing a given country requires uncovering the face of the woman for genuine reasons,

such as identification, the Muslim woman, like all other women, abides by the law.

The scholar Sheikh Muhammad Iqbal Nadvi (*imam* of Calgary Mosque, Alberta, and former professor at King Saud University, Riyadh), is quoted:

The issue of *niqab* (covering the whole body including the face and hands) is a basic condition of *hijab* (Muslim woman's dress) in one school of *fiqh*, while it is recommended part of *hijab* in other schools. But what is agreed upon in all schools is to remove the *niqab* [i.e. to uncover the face] for some genuine reasons such as identification or medical purpose. The case you mentioned may be a reason to remove the *niqab* if the police officer is in need to do so, and there is a legal requirement by the law to show the face, regardless of the faith and this applies to all faiths. However, this should not be a way of discrimination against a veiled woman just to tease her. Therefore, the sister has to insist on her right to use *niqab* and fight for this right if she is targeted for discrimination and the law does not require showing the face.

Another professor of *sharia* at Cairo University is similarly cited:

It is permissible, as far as *sharia* is concerned, to remove the *niqab* for some genuine reasons such as identification or to get a photo for ID or driving license. Therefore, if a Muslim woman is asked to remove the face cover to get a photo for such genuine reasons, then she is permitted to do so and Almighty Allah will forgive such matters.³²

All three *fatawa* emphasize the wearing of the *hijab* and modest clothing for Muslim women. Although verse 24:30 outlines a dress code for men, in the hundreds of *fatawa* on the subject there is no *fatwa* regarding this. There may be different reasons behind this silence regarding Muslim men's obligation to dress modestly: lack of pressure to conform to a certain dress code, or the spotlight being on Muslim women as 'visible' bearers of Muslim identity, or it may also be the case that as maintainers and protectors of women in their households (recalling verse 4:34), men are acting as monitoring agents for them but are not monitored in return.

While some of the *fatawa* reveal a degree of contestation over women's dress, there is little contestation on the basic principles of the code. They advised that there is no choice when it comes to covering the head, neck and chest, and the basic question of the contextual nature of this very rule remains unchallenged and untouched in the discussions. Difference of opinion only arises in whether the *niqab* is compulsory or not, and whether context plays a role in how a woman ought to appear in the public sphere. The discursive element arises both in the way in which some questions are framed and in responses provided. Some women forced by their husbands against their will to wear the *niqab* seek an Islamically authoritative response. In one instance, a husband seeks guidance

³² See www.islamawareness.net/Hijab/Niqab/questions.html, collected from live *fatawas* of www.islamonline.net.

regarding the limits of his authority over a wife who refuses to cover her hands. Whilst the responses differ in their detail, all these responses agree that the wife ought to obey her husband, even though a *niqab* is not universally agreed upon as compulsory. One *fatwa*, though, adopts a different standpoint, arguing that *forcing* a wife to do something is un-Islamic, in that wearing a *niqab* is supposed to be for Allah and not for the happiness of humans. It highlights the husband's unreasonableness and makes it clear that this does not bode well for the marriage. In comparison to the other *fatawa* studied, this stands out in the challenge it throws at the patriarchal stance of most *muftis*, both on and off the Internet.

The *fatwa* regarding ID photographs raises issues regarding the dress code for women but in a transnational and international context, and especially within a Muslim diaspora where laws are increasingly being adopted to prohibit face coverings. The *muftis* here lay out the plurality of interpretations on the *niqab*, then locate the question within the specific minority setting, arguing that Muslims must abide by the law of the land and that they ought therefore to remove a veil for identification in accordance with the law. *Fiqh al-aqalliyat* is invoked, where necessity (*darura*) may make the prohibited permissible.

In the Islamic traditions, veiling represents the ultimate dichotomy between the public and private spheres through a pronounced dress code for Muslim women. What usually does not come across in general debate, though, is the Qur'anic emphasis on 'recognition' and visibility of identity through dress as a protective measure in a politically and socially hostile and unfriendly environment. Were this aspect of the context to be highlighted, it would be clear that time, place, context and situation inform the dress code as much as the text. For instance, when in the politically hostile environment after 9/11 Muslim women wearing headscarves were harassed in public places, some scholars questioned the 'protective' nature of this dress code, and called on Muslim women to be cautious and conscious of their safety. A questioner from the USA, for example, sought a *fatwa* in 2003: 'Following what happened in the US lately, my wife can't go outside because she is scared. Can she take off her *hijab* when she goes out or not?' In response, the *fatwa* states that while covering the hair is non-controversial and that all schools of thought agree that a woman must cover her hair, in cases of a threat to her life she may remove it, if only temporarily. This *fatwa* is an example of the pragmatism that is being invoked in some quarters through application of *fiqh al-aqalliyat* and *maqasid al-sharia*. An example of this line of thinking is one *fatwa* responding to the question 'is the face veil compulsory?': 'I do not recommend the *niqab* for women who live in the West since they will attract unnecessary attention and people are less likely to easily communicate with them'.³³ Responding to a similar question about appropriate head covering for Muslim girls, Sheikh Muhammad Salim 'Abd al-Wadud cites the renowned Hanbali scholar Ibn Taymiyyah:

³³ 'Is Face Veil (Niqab) Compulsory?', onislam.net, 2 June 2014.

If the Muslim lives in a non-Muslim country, regardless of whether or not that country is hostile with the Muslim countries, he will not be obligated to make himself appear different than them. This is on account of the difficulties that doing so can pose. Indeed, it might be preferable or even obligatory for him to conform to their outward standards of appearance if there is a benefit.³⁴

Another interesting example is the wish of a British-Pakistani bride-to-be expected to wear the traditional bridal outfit befitting her ethnic heritage ('embroidered scarf, tunic & long, baggy skirt (*lengha*)') to instead be more 'Islamically' attired on her wedding day:

Initially, I had no qualms about wearing this outfit as I would be covered according to the Islamic requirements for a woman. However, I was talking to a few sisters who have commented that for me to wear such an outfit would not be acceptable in Islam as it would be bright, and some non-*mahram* men would see me in it.

In response, the *mufti* told her that a woman's clothes should not be an adornment in themselves, that they should be wide and loose to cover all the body, and thick so that they are not transparent: 'You should advise your family and explain to them the necessity of adhering to that which Allah has prescribed and enjoined. Explain that to your husband also, for he is responsible before Allah and is required to protect you and have protective jealousy concerning you.'

It is clear, then, that Internet *fatawa* on women's dress code reflect the divergence of opinion among scholars of Islamic law and varied interpretations of general and vaguely phrased Qur'anic verses. As may be gleaned from those verses, their objective is to set out a code of conduct and dress for Muslims (both male and female), adding specific rules for women in vulnerable social and political environments.³⁵ The first rule relates to the lowering of the gaze in interactions with men, which leads one to extrapolate the possibility of a gender-desegregated environment and women's role in the public space. Second, women have the added responsibility of covering their bodies except 'what is apparent' or what 'is acceptable', a latitude naturally leading to varying interpretations. Although the difference in practical terms only extends to whether the face should be covered or just the hair, a truly modern contextual interpretation of what constitutes 'apparent' and 'acceptable' would certainly lead us to ask more piercing questions. Does a head or face covering identifying the woman as a Muslim not leave her susceptible to harassment in an age of

³⁴ Iqtida al-Sirat al-Mustaqim 176, cited in the *fatwa* at en.islamtoday.net/node/712.

³⁵ For instance, when in the early days of Islam there were incidents of harassment against Muslim women, the Prophet asked women to identify themselves in public by wearing an outer garment. But where sociopolitical considerations now require that Muslim women 'blend in' with the wider population, this is instead advisable. Finally, where covering the head, face etc. is against the law in the country where a Muslim woman resides, and adhering to the *hijab/niqab* endangers access to basic education, health, employment and so on, a judgement has to be made whether it is advisable to confront the law, and to what end.

Islamophobia? The proposition I would make here is this: if the purpose of covering in a specific manner is to protect the woman, then it may well be that by *not* identifying herself by a particular manner of dress she is better protected. This perhaps is a step too far for Muslim individuals and communities, but is nevertheless one that has to be taken if the challenge of modernity is to be addressed from *within* the Islamic legal traditions.

8.8 The Triple *Talaq* Form of Divorce

The Prophetic *hadith* 'Of all things permitted in the eyes of Allah, divorce is the most abhorrent' sets the tone and tenor of the negative connotations of divorce in the Islamic legal traditions. It is considered as an absolute last resort and one that must follow certain procedures allowing for reconciliation as far as is possible. This is set out in several Qur'anic verses:

- (i) 2:228 (see above).
- (ii) 2:229: 'A divorce is only permissible twice: after that, the parties should either hold together on equitable terms, or separate with kindness. It is not lawful for you [men] to take back any of your gifts [from your wives], except when both parties fear that they would be unable to keep the limits ordained by Allah. If ye [judges] do indeed fear that they would be unable to keep the limits ordained by Allah, there is no blame on either of them if she give something for her freedom.'
- (iii) 2:230: 'So if a husband divorces his wife [irrevocably], he cannot, after that, remarry her until after she has married another husband and he has divorced her. In that case there is no blame on either of them if they reunite, provided they feel that they can keep the limits ordained by Allah.'
- (iv) 2:231: 'When ye divorce women, and they fulfil the term of their [*iddat*], either take them back on equitable terms or set them free on equitable terms; but do not take them back to injure them, [or] to take undue advantage; if any one does that, he wrongs his own soul.'
- (v) 2:232: 'When ye divorce women, and they fulfil the term of their [*iddat*], do not prevent them from marrying their [former] husbands, if they mutually agree on equitable terms.'

On the face of it, these verses create a clear set of rules for terminating the marriage contract. Yet, in keeping with the interpretative plurality at play in most areas of the Islamic legal traditions, they have been subject to multiple ways of understanding and application. The main area of contention lies in whether a single pronouncement stating that the wife stands 'divorced thrice' or that she is divorced 'irrevocably' indeed has that effect. Prescribed procedure on divorce has been divided into the *ahsan* and *hasan* modes. By the former, a husband makes one pronouncement of divorce during his wife's *tuhr*,³⁶ and abstains

³⁶ That is, the period between two menstrual cycles when it is permitted for the husband to have sexual intercourse with his wife.

from sex with her throughout the period of *iddat*,³⁷ during which he may revert to her (and the divorce does not take effect). By the latter, the husband must pronounce a single *talaq* during the wife's *tuhr* for three consecutive months, while refraining from sex with her. This, too, allows reconciliation until the end of the third month. The verses state that only if a divorce procedure has been repeated thrice does it become irrevocable, and so a husband cannot then take his wife back. (Ithna Ashari Shia law only allows divorce in accordance with the prescribed *ahsan* and *hasan* modes, and does not recognize the triple *talaq*.)³⁸

However, as is recognized in the Islamic legal scholarship, it was the second caliph Umar ibn Al-Khattab (reigned 634–44) who ruled that a triple *talaq* amounts to a valid, irrevocable divorce.³⁹ This form of divorce, although validated only under specific and special circumstances, nevertheless became part of Muslim practice. Contested throughout Muslim history for its summary and unjust manner of terminating a marriage, it is known as *talaq ul-biddat* (*biddat* means 'innovation', but in the sense of it being unauthorized or undesirable) and has been the subject of much scholarly as well as popular debate. In an almost fatalistic presentation, scholars have described the triple *talaq* as theologically bad but legally valid, implying that, despite its negative and unjust consequences, it is legally effective. Frank Vogel notes this ambivalence:

Early in Muslim history the practice arose of issuing three divorces at once, the husband ridding himself of his wife in one dramatic, fatal stroke. Historically, Sunni *fiqh* authorities have almost universally held that such a triple divorce has full effect as triple, even though they decry it as sinful and even forbidden. However sinful, this form seems always to have been in common use, to the extent that many Muslim men today seem to know of no other form.⁴⁰

The process of law reform and codification in the Muslim world set about allaying this sense of lingering injustice and disquiet with the triple *talaq*. The personal status codes of many Muslim jurisdictions have attempted to curtail it by expressly declaring its three pronouncements as equivalent to just one, in the spirit of the Qur'anic verses. For example, Jordan's Personal Status Law holds,

³⁷ The prescribed waiting period after a pronouncement of divorce. This is primarily to ascertain whether the wife is pregnant so that, if she is, paternity is established and the child ascribed to the father.

³⁸ El-Alami and Hinchcliffe, *Islamic Marriage and Divorce Laws*, pp. 23–4. For a discussion of the impact of triple *talaq* on women's rights in Oman (Ibadi school), see K. Al-Azri, 'One or Three? Exploring the Scholarly Conflict over the Question of Triple Talaq (Divorce) in Islamic Law with Particular Emphasis on Oman', *Arab Law Quarterly* 25(3) (2011), 277–96.

³⁹ N. Ahmad, 'A Critical Appraisal of "Triple Talaq" in Islamic Law', *International Journal of Law, Policy and the Family* 23(1) (2009), 53–61.

⁴⁰ F. E. Vogel, 'The Complementarity of *Ifta* and *Qada*: Three Saudi *Fatwas* on Divorce', in Masud, Messick and Powers, *Islamic Legal Interpretation*, p. 265. Historical court records too provide evidence that the triple *talaq* was accepted as legally enforceable. See, for instance, I. Agmon, 'Muslim Women in Court According to the Sijill of Late Ottoman Jaffa and Haifa: Some Methodological Notes', in A. A. Sonbol (ed.), *Women, the Family, and Divorce Laws in Islamic History* (Syracuse: Syracuse University Press, 1996), pp. 130–1.

'*Talaq* to which a number is attached verbally or by gesture and *talaq* repeated at a single session shall take effect only as a single *talaq*.'⁴¹ And Pakistan's Muslim Family Laws Ordinance 1961 'reinstates' the *ahsan* mode of divorce, stating, 'Save as provided in sub-section (5), *talaq* unless revoked earlier, expressly or otherwise, shall not be effective until the expiration of 90 days from the day on which notice under sub-section (1) is delivered'.

As a result of these statutory prohibitions regarding the triple *talaq*, a disconnect has arisen between the laws of divorce as enunciated by classical scholars and the personal status codes of modern-day Muslim jurisdictions. The 'sinfulness' of the triple *talaq*, which severs the marriage contract in less than one minute, is a challenge that modern Muslims have taken on. Interestingly, Internet *fatawa* reinforce the legislatures' approach and reflect their position. Of all the *fatawa* studied, not a single one ruled in favour of a triple *talaq*. New alliances are being forged between various constituencies of Muslims to resolve questions of Islamic law in a manner they believe are in keeping with 'adl (justice). What is surprising, however, is that this aggressive campaign from law-makers as well as Internet *muftis* has not dissuaded Muslim communities from continuing this practice. Muslims continue to remain unsure of the validity of the triple *talaq*, as demonstrated by the large numbers of questions on the subject. Furthermore, one consequence of a 'valid' triple *talaq* is that most abhorrent of practices, the *tahlil* (or *halala*) marriage.

A survey of the sixty-two *fatawa* on the triple *talaq* shows that it had generally been pronounced in a fit of anger, when the husband was not in control of himself. Fearful for the fate of his marriage, he then typically reaches out to the *mufti* in the hope that he will declare his divorce ineffective. One question was posed by a British convert to Islam; he and his wife had been married for three months, and he had on many occasions pronounced a single *talaq* during arguments. He explained,

now people are telling me that I must leave my wife who I love and she has to be married to another and have sexual intercourse with another man and divorce or he dies before we can remarry, which she finds disgusting and I believe seems very un-Islamic . . .

The response explained first that 'were it not for the anger he would not have issued the divorce, then it does not count as a divorce'. Second, it was noted that the legal opinions of *fuqaha* differ concerning the triple *talaq*, the most correct opinion being that it only counts as one divorce.

By the same token, if he issued a divorce then he repeated it during the *iddat*, the divorce before taking her back is part of the first divorce, because it only happens once, and divorce can only happen again after a marriage contract or after taking the wife back.

⁴¹ El-Alami and Hinchcliffe, *Islamic Marriage and Divorce Laws*, p. 99.

The *mufti* also gave his opinion on the matter of lack of witnesses, since the questioner had hoped that his pronouncements might not be valid; the *mufti* noted the scholarly consensus that a pronouncement of *talaq* is valid without witnesses. His advice ended, 'We advise you to be careful and avoid using the word *talaq* altogether.' Another question regarding validity of the triple *talaq* turned on whether the husband had been threatened with violence and imprisonment on false charges if he did not pronounce divorce on his wife. The *mufti* quoted a number of scholars – Zaad al-Mustaqni, Ibn al-Qayyim, Zaad al-Ma'aad, Sunan Ibn Maajah, Ibn Abbaas and I'laam al-Muwaqqi'een – in support, and recommended that the questioner take the case to a *sharia* court to cancel the divorce.

It is clear, then, from its portrayal in Internet *fatawa* that the triple *talaq* as a valid form of divorce is understood to be problematic within Muslim society and within the Islamic legal traditions; unjustly resulting in a summary severance of the marital tie, it has always sat uncomfortably on the fringes of Islamic legality. Muslim jurisdictions have legislated to prohibit the practice; yet it is evoked by husbands across the world. Muslim popular consciousness has always raised it as an issue of severe injustice: it is a recurrent trope in South Asian fiction, and popular Urdu and Hindi movies have made it their central theme, with pronouncement of the triple *talaq* highlighted along with all the attendant negative consequences for the family.⁴² It is therefore especially interesting that Internet *fatawa* on the subject appear without exception to challenge its validity and legitimacy, presenting instead a unified position, declaring it simply invalid from an Islamic legal perspective.

8.9 Tahlil Marriage

As observed in sixty-three of the Internet *fatawa* studied, the status of *tahlil* marriage (an intervening marriage between the divorce and remarriage of the same two people, intended to make the remarriage permissible) proved to be an excellent example of how the Internet *fatwa* is challenging modernity and tradition. The status of *tahlil* marriage has certainly been contested historically, with the Qur'anic text susceptible to varying interpretations resulting in more than one possible legal formulation, a fact recognized and set out in Internet *fatawa*. A *tahlil* marriage undertaken solely with the intent of marrying the first husband is only considered valid by a small minority of Hanafi scholars. Furthermore, the Qur'anic verses incorporate social and ethical dimensions alongside the legal norm. What passes on as Islamic law in a certain jurisdiction, community or court rests upon understanding of the religious text in that particular time, place and locality, and in the institution from which it draws its legitimacy. Yet despite these variations, one factor remains resistant to change – an all-encompassing patriarchal mindset which, despite centuries of discussion,

⁴² Indeed, one of the best-known Hindi films on the topic is simply titled *Talaq*.

has shifted little, manifesting itself in a default position of superiority and stewardship for men, and subservience for women.

This patriarchal lens is evident in the manner in which the relevant verse (2:230: 'So if he divorces her she shall not be lawful to him afterwards until she marries another husband; then if he divorces her there is no blame on them both if they return to each other [by marriage] . . .') is construed within the legal traditions and among communities. A second translation of the same verse, by Abdullah Yusuf Ali, states, 'And if he has divorced her [for the third time], then she is not lawful to him afterward until [after] she marries a husband other than him. And if the latter husband divorces her [or dies], there is no blame upon the woman and her former husband for returning to each other'. The commentary that follows describes the woman's remarriage and the second husband's act of divorcing her as setting 'an almost impossible condition. The lesson is: if a man loves a woman he should not allow a sudden gust of temper or anger to induce him to take hasty action'.⁴³

Even during the lifetime of the Prophet, at least two possible interpretations of verse 2:230 were floated. The more widely accepted and practised is that the intervening *tahlil* marriage is conducted solely to facilitate the remarriage of the former spouses and make the woman *halal* to her former husband; the more religiously and ethically plausible interpretation is that the rationale behind verse 2:230 is to afford the permissibility and possibility of a valid remarriage between divorced couples should they *perchance* have had an intervening marriage and divorce, rather than denying this possibility to the couple. Two seemingly opposing *ahadith* add to this debate. The first is where he is said to have stated, 'Allah has cursed the *muhallil* [a man who marries a woman and divorces her so that she can go back to her first husband] and the *muhallal lahu* [the first husband]' (narrated from Abu Dawud, one of the six authentic *hadith* collections).⁴⁴ But another *hadith* declared that the woman 'is not lawful for the first [husband] until she tastes the honey of the other husband and he tastes her honey'.⁴⁵ Reconciling the two *ahadith* on the basis of their different contexts, it is obvious that the first was a general principle of interpreting verse 2:230: no one would be allowed to marry with the *intention* of acting as a temporary spouse and divorcing the wife to enable a remarriage. The second, however, relates to a woman who, after an irrevocable divorce, remarried and then, without consummating the remarriage, demanded to be divorced so she could remarry her former husband. What is prohibited is an intervening marriage for the sole purpose of fulfilling the requirements of verse 2:230.

⁴³ *The Holy Qur'an, Text, Translation & Commentary* by Abdullah Yusuf Ali (Lahore: Sheikh Muhammad Ashraf, 1990), p. 91.

⁴⁴ See <http://islamqa.info/en/159041>. A similar *hadith* is narrated from the collection *Ibn Majah*, in which the Prophet is stated to have declared, 'Shall I not tell you of a borrowed billy-goat? He is the *muhallil*. May Allah curse *al-muhallil* and *al-muhallallahu*.'

⁴⁵ Abu Dawud, Book 12, *Hadith* 2302, narrated by Ummul Mominin Aisha, available at <http://islamqa.info/en/159041>.

Muslim communities have historically been uncomfortable with *tahlil* marriage, as is evident from the manner in which it is discussed and approached in Islamic history, in legal construction, and in questions posed to *muftis* to solicit *fatawa*, as well as in case law. It has been perceived as a 'punishment' for the first husband, since his wife becomes the wife of another man, a serious insult in a male-dominated society. What I have personally always found puzzling is the absence of discussion or mention of the intervening marriage as a punishment for the wife. After all, it is she who is made to agree (by popular understandings of the concept) to a fake and temporary marriage in order that her husband may marry her again. The divorce itself has in all probability been the result of a *talaq* pronounced by a husband who has since regretted it and wants to reconcile. This line of investigation leads one down a path of gendered, male-dominant aspects of Islamic family law and a near absence of women's voices or gender-neutral interpretation of the religious text. Whatever its interpretation, verse 2:230 has created a legal barrier between a divorced couple's ability to remarry without an intervening marriage that has been consummated.

In an age of codified family law, where the family is considered the cornerstone of society, *tahlil* marriage is largely excluded from Arab legal codes. Any contract that would impose conditions on the duration of the marriage is invalid under, for example, Egyptian law.⁴⁶ *Tahlil* marriage is 'squeezed out . . . between the now code-driven definition of marriage as a lasting contract and the prohibition of any kind of temporary marital arrangement'.⁴⁷ Similar articulations appear in Jordanian law:

absolute irrevocability [of divorce] shall be negated by the marriage of the irrevocably divorced woman who has completed the waiting period to another husband, without the intention of *tahlil*. This shall be on the condition that the marriage is consummated, and after she is divorced from the second husband and has completed the waiting period she shall be lawful to the first husband.

In Moroccan law, too, a remarriage 'is required . . . to restitute an irrevocably divorced wife to her former husband but must be concluded without intent of time limitation, and must be consummated'.⁴⁸

The legal historian Judith Tucker has traced popular conceptions of Islamic family law as presented in the courts of the *qadi* and in the *fatawa* of *muftis* through her archival research in the Middle East.⁴⁹ Discussing *talaq* and remarriage to the same spouse, she refers to a historical *fatwa* clarifying the validity of a *tahlil* marriage, in which the husband had had his wife married to his adolescent slave, with minimal sexual contact before being divorced, and

⁴⁶ El-Alami, *The Marriage Contract in Islamic Law: The Shariah and Personal Status Laws of Egypt and Morocco* (London: Graham & Trotman, 1992), p. 24, cited in Stowasser and Abul-Magd, 'Tahlil Marriage in Shari'a'.

⁴⁷ Stowasser and Abul-Magd, 'Tahlil Marriage in Shari'a', p. 170. ⁴⁸ Ibid., p. 174.

⁴⁹ J. Tucker, *In the House of the Law: Gender and Islamic Law in Ottoman Syria and Palestine* (Berkeley: University of California Press, 1998).

then remarried to him. The *mufti* declared this to be a valid procedure making the wife *halal*.⁵⁰ In a more recent work, Tucker also highlights the variety of interpretations applied to verse 2:230 that have created confusion around the validity of *tahlil* marriage. Citing classical Islamic law scholars⁵¹ of the different schools of juristic thought, *muftis* and *fatawa*, she shows that discourse on this point has not engaged from a woman's perspective, legal history simply presenting women with a *fait accompli*.⁵² Seeking to remove this ambiguity through *fatawa* is therefore not confined to Internet websites but runs deep in legal history.

The sixty-three Internet *fatawa* appear to have adopted a strong line on the validity of an 'instrumental' *tahlil* marriage, describing it as *haram*. In this, they are in line with a wider debate it is possible to see on the Internet. A straightforward question was asked at islamonline.com: 'My friend has divorced his wife the third and final divorce. Is it permissible that I marry her then divorce her so that she can return to her first husband?' The *fatwa* cited verse 2:230 in finding that the wife indeed could not remarry the same man without an intervening marriage, but also insisted that the remarriage had to be valid, not a (temporary) *muta* marriage or an (instrumental) *tahlil* marriage. This insistence that *tahlil* marriage was *haram* was grounded in *ahadith* ('Abu Dawood (2076) narrated that the Prophet (peace and blessings of Allah be upon him) said: Allah has cursed the *muhallil* [a man who marries a woman and divorces her so that she can go back to her first husband] and the *muhallal lahu* [the first husband]. This was classed as *saheeh* by al-Albaani in Sunan Abi Dawood⁵³) and in the rulings of subsequent legal scholars (Ibn Majaah, Abd al-Razzaaq, Al-Haakim, Naafia, Imam Ahmad). Similar *fatawa* issued from the other websites in the study also categorically denounced *tahlil* marriage as prohibited.

It is evident, then, that a new form of homogenization of opinion has emerged regarding *tahlil* marriages across the four Sunni schools of juristic thought. Originally, solely the minority Hanafi opinion declared a *tahlil* marriage valid at an abstract level, without interrogating the details of the parties' intentions or the duration of marriage, while the Malik, Shafi'i and Hanbali schools established stringent rules to reflect *ahadith* on the subject. Yet Internet *fatawa*, in line with the personal status codes of Muslim jurisdictions, are now invariably ruling against the institution of *tahlil* marriage, and supporting only the 'permanent' contract of marriage, a new trend in an inherently pluralistic matter.

8.10 Reflections and Conclusions on Internet *Fatawa* as Counterhegemonic Discursive Sites

Internet *fatawa* relating to women and gender issues offer interesting insights into how legal traditions are responding to changing societal understandings.

⁵⁰ Ibid., p. 88.

⁵¹ Al-Marghinani, Al-Hedaya, 2:589, cited in Tucker, *Women, Family, and Gender in Islamic Law*, p. 88.

⁵² Ibid. ⁵³ See <http://islamqa.info/en/109245>.

From the outset, it is clear that the websites studied (as well as others not forming the subject of this study) have situated themselves in a global and universal framework and context, recalling the universal nature of the Muslim *ummah*. Having said that, most of the questions and responses have been framed within the lived experiences of what we might broadly call 'Western' or diaspora Muslims (unsurprisingly, given that access to the Internet and fluency in its predominant languages have so far created much less of a 'virtual' Muslim audience in the non-West). The websites appear to have an agenda of 'Islamizing' these diaspora Muslims, which accounts for the ethical and moral emphasis and tenor which are presented alongside the legal content of the *fatawa*. Finally, it is easy to detect the strongly pedagogical aim of the *fatawa*. Based on the range of themes, questions posed and responses received from *muftis* in the present sample, *fatawa* websites have swiftly come to occupy a new niche as places for the dissemination of a counterhegemonic discourse on socio-legal, political, and religious issues. By arching across national boundaries and ethnicities, they are challenging existing norms based on localized traditions and schools of juristic thought. British Muslims of South Asian descent, for example, are seeking affirmation of a 'pure' or 'pristine' Islam by challenging their parents' ethnically rooted notions of Islam manifested in, say, divorce by triple *talaq*, dress codes and so on.

Internet *fatawa* on women and gender issues appear to run counter to the mainstream, male-dominated discourse within the legal traditions by seeking 'logical' or 'rational' reasons for what is asserted. Simultaneously, these sites are in themselves hegemonic in that they are a form of regulation of family and of family formations through religion rather than through secular or 'humanist' mores. The *fatawa* in the study also highlight a counterhegemony in their resistance to the dominant 'Western' discourse on these matters, ensuring that the discussion remains within an Islamic framework, by and for Muslim communities.

Muslims globally are increasingly referring to Internet *fatawa* to raise questions and address issues affecting their lives, communities and countries, and the world at large. We have only focused on *fatawa* that have generated a discourse on the Islamic legal traditions, relating to women and gender issues and, more broadly, to family law in contemporary transnational settings, but Internet *fatawa* cover all manner of subjects. The *fatawa* we have looked at raise a number of important points in informing our understandings of views of Muslims on norms and principles impacting on the status of women and the role and obligations of Muslims, individually and collectively. But of course just a brief reflection should also alert us to the dangers of engagement with faceless, shadowy figures and entities whose credentials we do not know. We have no way of knowing whether the questioners and the *muftis* are 'real' persons, or what their qualifications are to assert what they do. It might be argued that Muslim women seeking insights into their most intimate and critical dilemmas are caught in a controlling mechanism which is merely dressed in the garb of autonomy. Following on from this is another concern: in the absence of a

uniform, agreed, global, authoritative voice across the Muslim world regarding the accuracy or otherwise of a *fatwa*, how might *fatwa* pronouncements be regulated, if at all? We still stand at the dawn of the Internet *fatawa*, and what their implication might be for law- and policy-making in Muslim countries, as well as for regulatory norms for diaspora Muslims, is as yet unknown. Historically, questions relating to family law have been formulated within the confines of particular communities, and *muftis* were rarely called upon to address and develop comprehensive norms and guidance regarding plural identities, e.g. a Muslim also being Pakistani and British, or an American of Syrian origin. The Islamic legal traditions are under pressure to respond to the anxieties of Muslims in Muslim-majority countries as well as in the West, who need to make decisions impacting on their lives and those of their families and communities. This discourse has found a variety of contemporary manifestations, of which the use of Internet discussions, chat rooms, email and *fatawa* is just one.

Other trends emerge from this study. For instance, the number of *fatawa* on triple *talaq* divorce and *tahlil* marriage are far fewer than those on dress. This is partly because discussions on the two former topics are generally interlinked and, in quite a few cases, the *fatawa* on *tahlil* are preceded by a discussion on Islamic rulings on *talaq*. From a closer analysis of islamonline.net, a marked rise in 2011 in the number of queries on dress (especially *niqab* and *hijab*) can be noted compared to the preceding years.⁵⁴ This increase might best be explained by the fact that these queries coincided with the ban on face coverings implemented in France in the preceding months. The dress-code *fatawa* of this period clearly engage with the legal debates in France, while also touching upon the topics of secularism and human rights, as well as the relationship between religious commandments and state laws.

Finally, there is the role of these websites to consider in the evolution and development of national and international laws, norms and regulatory mechanisms on women and gender. Have Muslims in France, for instance, decided to adhere to a *fatwa* that requires them to register their marriages within the mainstream French legal system? Why is there not a *fatwa* from a UK-based *mufti* enabling British Muslim women to register their marriages within the British legal system, saving them the difficulties arising from non-recognition of their 'religious' marriage contracts in English courts? Have Muslim women in Norway accepted the un-Islamic-ness of the triple *talaq* and acknowledged that Pakistan's statute (the country of origin of many Norwegian Muslims) prohibiting it is Islamically valid? Have women reading these *fatawa* refused to enter into *tahlil* marriages on the basis of their illegality in Islamic law? These and many other questions need yet to be addressed. It is not immediately apparent whether Internet *fatawa* are moving beyond their websites to impact upon Islamic law as practised by globalized Muslim communities and upon state

⁵⁴ islamonline.com presented ten *fatawa* about *niqab/hijab* in 2011 alone, compared to just twenty-one on the same issues between 2003 and 2010.

practice, or whether they will remain within the confines of a 'cyber-Islamic environment'. In Western Europe, in the absence of institutionalized Muslim authorities, *muftis* and their *fatawa* play a significant role in the construction of Islamic knowledge.⁵⁵ Internet websites regularly respond to questions of Muslims from Muslim and non-Muslim countries, mainly Europe and the United States. Sisler concludes that a new paradigm has emerged in the construction of Islamic knowledge.⁵⁶ However, this is qualified by cautioning that, despite the phenomenal number of hits on these websites, 'there is no proof that the Internet itself is an antidote to authoritarianism and could radically reshape the foundations of the decision-making process. The construction of Islamic knowledge in Europe is a complex matter . . . and cannot be understood solely within a media-centric logic'.⁵⁷ Musa Furber's study highlights the complexity inherent in the role of Internet *fatawa* in the development of Islamic law, an important finding being that increase in distance from the source of the *fatwa* (the *mufti*) leads to a decrease in confidence in the validity of the transmitted *fatwa*.⁵⁸ Hence a much longer timespan is required to assess the impact of Internet *fatawa* on Islamic law and existing studies are only indicative of trends and possible directions.

The Internet *fatawa* studied illustrate their two-sided nature, challenging both tradition and modernity. They also testify to the dynamism of the Islamic legal traditions in responding to contemporary challenges by attempting to move beyond interpretative plurality when the situation demands unanimity. The closing of ranks among all the Sunni schools in relation to the triple *talaq* and *tahlil* marriage testifies to a new paradigm of an inter-*madhhab* and inter-sect (Sunni–Shia) alliance.

⁵⁵ Sisler, 'Internet and the Construction of Islamic Knowledge', 206. Caeiro has noted that 'in Europe the *fatwa* is the only useful mechanism in dealing with normative issues'.

⁵⁶ Sisler, 'Internet and the Construction of Islamic Knowledge', 208.

⁵⁷ *Ibid.*, 210. ⁵⁸ Furber, 'Ranking Confidence', p. 3.