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A Respite to and from Fatwas, please.

A messenger brought me some news. It began:

Darul Uloom Deoband, the self-appointed guardian for Indian Muslims, in a Talibanesque fatwa that reeked of tribal patriarchy, has decreed that it is “haram” and illegal according to the Sharia for a family to accept a woman's earnings. Clerics at the largest Sunni Muslim seminary after Cairo's Al-Azhar said the decree flowed from the fact that the Sharia prohibited proximity of men and women in the workplace.

“It is unlawful (under the Sharia law) for Muslim women to work in the government or private sector where men and women work together and women have to talk with men frankly and without a veil,” said the fatwa issued by a bench of three clerics. The decree was issued over the weekend, but became public late on Monday, seminary sources said.<sup>1</sup>

One should not shoot the messenger if one does not like the message. True. But, allow me at least to discover what was being “messed.” Strictly speaking, it was the following exchange on the website of the *Darul Ifta* (‘fatwa office’) of the Deoband seminary. (<http://darulifta-deoband.org/>. No changes in language and punctuation have been made in all the quotations below.)

From the section on women’s issues.

[1] Question: 21031, India.

“Asalamu-Alikum: Can muslim women in india do Govt. or Pvt. Jobs? Shall their salary be Halal or Haram or Prohibited?”

[2] Answer: 21031. 04 Apr, 2010 (Fatwa: 577/381/L=1431).

“It is unlawful for Muslim women to do job in government or private institutions where men and women work together and women have to talk with men frankly and without veil. Allah (Subhana Wa Ta'ala) Knows Best.”

A question asked, an answer given. No decree, only a response. My dictionary tells me, decrees are what kings and judges issue. Most importantly, a court or a king can issue a decree *suo motu*—of his own volition. Not so a mufti. And yet, “decree” was thrice used in the above report to describe a fatwa, delivering a “message” distinctly independent of the original “incident,” as evident in the opening descriptions: “Darul Uloom Deoband,

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<sup>1</sup> News report in the *Times of India* of May 12, written by Pervez Iqbal Siddiqui.

the self-appointed guardian for Indian Muslims, in a Talibanesque fatwa that reeked of tribal patriarchy....”

But what about the person who started it all, the questioner, and his struggle to frame the question? He wished to know if the woman’s salary was “Halal or Haram or Prohibited.” Three categories, clearly labeled. The response, however, used a fourth word, “unlawful,” without explaining how it differed from the earlier three. (Goes to show the Deoband muftis are as sloppy in their own tradition as in English.) The messenger then made the situation worse by replacing the muftis’ one word with his own two: “...it is “haram” and illegal according to the Sharia for a family to accept a woman's earnings.” Are “unlawful,” “illegal,” and “haram” synonymous in Islamic legal discourse?

The last sentence in the fatwa, “Allah (Subhana Wa Ta'ala) Knows Best,” was entirely erased—perhaps because it was considered trite. Most Muslims, however, would say that the customary closure is a confession of the fatwa-giver’s own fallibility, as opposed to Allah’s unique infallibility. In practical terms, it has always meant that the questioner was free to go to other muftis and obtain a response more appropriate to his precise circumstances. That is why there is no single, all-encompassing, totally binding tome of fatwas even after fourteen centuries of Islam.

Earlier, Islamic judicial system required a *qadi/qazi* to put into effect the mufti’s generalized opinion—with the backing of the state’s authority and only after examining the specific circumstances of the case. Colonial judicial system gradually ended the role of the qazis. It would not, however, end the role muftis played in Muslim lives, exactly because muftis were not judges. They were at best only consulting lawyers, speaking up only when asked. When some people today demand that the muftis at Deoband must stop issuing fatwas, they are being unjust. They should instead ask Indian Muslims to abstain from seeking opinions.

Reverting for a moment to the earlier analogy, the Deoband fatwa, in my view, was itself only a “messenger.” The actual message to note and ponder over lay in the question that triggered it—the anxiety about women in work places, and the use of their wages by other members of the family. Would it not be more useful to try and discover why there should be that anxiety in 2010? Is it exclusive to Muslims, or does it represent a malaise that is independent of Islam?

Now consider the following two fatwas from the same authorities.

A. From the section on women’s issues.

[1] Question: 21388, India.

“What is tatheer (katna) in some arab & afrikan contries they perform this on girls, As per hadees is it correct?”

[2] Answer: 21388, 19 Apr, 2010 (Fatwa: 630/630/M=1431).

“According to the reliable opinion, the circumcision of girl is not sunnah, for it is not proved from authentic hadith. [Quotation in Arabic from a commentary.] Allah (Subhana Wa Ta'ala) Knows Best.”

B. From the section on Islamic beliefs.

[1] Question: 20940, India.

“AS SALAMU ALIKUM.. Can we use KHUDA for ALLAH. mUFTI SAHAB, PLZ reply in light of QURAN N HADITH.”

[2] Answer: 20940, 24 Mar, 2010 (Fatwa: 697/543/H=1431).

“The word ‘*Khuda*’ is similar to the word ‘Allah’ in denoting the existence of Almighty Allah, hence it is allowed to use the word. Some *Asma-e Husna* (the Beautiful Names of Allah) are mentioned in the holy Quran not in hadith, while some are in ancient scriptures not in hadith too. And if any glorious name from the *Asma-e Husna* (the Beautiful Names of Allah) is applicable like the word of Allah, there is no doubt in its permissibility though it does not exist in the holy Quran and hadith. It is written in *Fatawa Mahmoodia*: a word which is not the sign of other religious communities one cannot be prevented to use it, such as Khuda, Ezad, Yazdan; these names are not the sign of any particular non-Muslim community rather they repeatedly occur in the works of Muslim scholars.” (Vol. 5, P 377, printed Meerut, old). Allah (Subhana Wa Ta'ala) Knows Best.”

Are the two fatwas regressive? They may not go far enough, but in intent they are as progressive as fatwas come. No women’s organization in Africa would hesitate to use the first fatwa in a campaign to eradicate the terrible practice. Likewise, the second would be most welcome to many South Asian Muslims, disturbed by the absurd controversy swirling around the use of the expression, *Khuda Hafiz* (“God be your protector; goodbye”). That traditional expression is now almost erased from usage in Pakistan, having been replaced by *Allah Hafiz*, and might soon meet the same fate in India. I, for one, would gladly use the above fatwa in any future argument with the deniers of *Khuda Hafiz*. *Lohe ko loha kaaTta hai* (“You use steel to cut steel”).

Now consider one last fatwa, again from the section on women’s issues.

[1] Question: 11231, India.

“My wife has multiple fibroids in her uterus due to which she suffers from heavy bleeding all the time for the last few years.since she says its not possible to differentiate between her menses and the bleeding from fibroids she does not do her namaaz anymore.we have tried all forms of treatment but nothing has helped so far.we are avoiding the operation as she has undergone five operations.what does the shariat say for a problem like this. how and when can she offer her namaaz .jazak allah in advance for your reply.”

[2] Answer: 11231, 21 Feb. 2009 (Fatwa: 385/D=30/K/1430).

“A women bleeding continuously will count the menstruation days according to her last schedule i.e. the days of menstruation cycle before this disease will be counted as the menstruation days after the disease. During these days, she will not offer prayers, while in rest of the days after having bath after menstruation will she offer every prayer with *wudhu*. With one *wudhu*, she can pray as much salah as she can, provided there happens no other thing which nullifies the *wudhu*. Allah (Subhana Wa Ta'ala) Knows Best.”

Surely no one would question the sincerity that underlies both the question and the answer. The fatwa is neither “regressive,” nor “progressive.” It is a statement concerning acts that are beyond the binary habit of the present day English-language discourse concerning fatwas. And that exactly is the nature of the vast majority of all recorded fatwas. They are sincerely attempted answers to sincerely asked questions. They still serve an important purpose in the lives of the devout.

I am not unaware that we have now lived for two decades under the pall cast by Imam Khomeini’s so-called fatwa— strictly speaking it was a *hukm* or command, like a qazi’s—against Salman Rushdie. But I place more faith in the history of fatwas in South Asia. Altaf Husain Hali devotes nearly ten pages of his famous biography to all the fatwas that were given against Sir Syed. The great reformer was repeatedly accused of repudiating Islam. His actions and views were declared heretical. At least one detractor traveled to Mecca to obtain a fatwa declaring him a *kafir*. More than sixty divines in India expressed similar separate judgments. Similar fatwas were issued against several Muslim leading figures of the past century. But life went on. And change did happen. The countless fatwas against women’s education, issued at the beginning of the 20<sup>th</sup> century, did not stop Muslims from educating their daughters. Nor would similar fatwas prevent the daughters’ daughters now from seeking professional jobs in every field.

It would be much better all around, in my view, if the fatwa-seekers and fatwa-givers were alike given a respite—call it benign neglect—by an overheated press and well-intending reformers. Let us ignore all fatwas—at least for one year—the way we recently ignored the infamous cartoons and the inane Pakistani reaction to them. Let us allow some breathing space to those who can’t live without a fatwa, as well as to those who perforce must meet that need. Meanwhile, the muftis at Deoband would be well advised to learn English well, and urgently develop a precise terminology in it to communicate all the nuances developed over centuries in Arabic, Persian, and Urdu.

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