

‘Where Only Women May Judge’: Developing Gender-Just Islamic Laws in India’s All-Female ‘*Shari’ah* Courts’

Justin Jones

University of Oxford

justin.jones@theology.ox.ac.uk

Abstract

Over the last four years, India has become the centre for a major experiment in the implementation of a so-called ‘gender-just Islam’ by Islamic feminist organisations: the formation of a non-official, female-led *shari’ah* court network, within which women serve as *qāzīs* (religious judges) to adjudicate disputes within Muslim families. Presenting themselves as counterweights to more patriarchal legal bodies, including both the official judiciary and unofficial dispute resolution forums, these *shari’ah* ‘*adālat*s employ both state-centred and community-focused strategies to assist Muslim women experiencing marital or family-related strife. Based on interviews with female *qāzīs* and associated documentary sources, I examine how the women who run these courts adjudicate family conflicts according to what they understand as both the Qur’an’s ethical teachings, and its stipulations regarding the proper methods of dispute resolution. I also argue that these all-female *shari’ah* ‘*adālat*s reflect a shift of focus away from court litigation and legislative intervention, and towards non-state, arbitration-focused practices, as the most fruitful means to protect the needs of Muslim women in contemporary India.

Keywords

arbitration – marriage/divorce – India – Islamic courts – Islamic feminism – *qāzī* – *shari’ah* – [Muslim] women

Introduction: *Shari’ah* Courts among the Many Rooms of Justice

For so long, men alone captured their positions by saying that only they can be *qāzīs* (religious judges), and not women. We disagreed; women

can also work as *qāzīs*, pass judgments, interpret the religion and explain it, perhaps even better than can men. This is why we have only woman judges here.¹

The north Indian city of Jaipur, most famous for its male Hindu *rajās* (kings), is also becoming known among sections of Indian Muslims for its female Muslim *qāzīs* (religious judges). Deep in Johari Bazaar, in the city's chaotic old centre, sits one of a network of so called *sharī'ah 'adālat*s ('Islamic courts') developing in contemporary India. For many decades, non-state *sharī'ah* councils (usually called *dār-al-qazās*) have been administered by 'ulamā-led religious organisations in India, such as the All India Muslim Personal Law Board and the Amara't ul-Shari'ah. They work as forums of so-called alternative dispute resolution (ADR), separate from but parallel to the formal court system, which Muslim litigants may voluntarily consult for non-state adjudication of family disputes according to Islamic law by a designated *qāzī*.² Equally, a range of *sharī'ah* councils operate in various forms and within a number of different legal-constitutional frameworks across the Islamic world, many of which have already been the subject of authoritative academic scholarship.³ In most cases, in India and beyond, these *sharī'ah* judiciaries are staffed exclusively by male 'ulamā who act as 'qāzīs', based on the assumption that women are prohibited from taking such positions. However, in this regard, the Jaipur *sharī'ah 'adālat* is distinctive: it is run and staffed entirely by women.

1 Interview, Jahan Aara (*qāzī*), Jaipur, 21 August 2017.

2 On these non-state Islamic dispute resolution bodies in India, see Katherine Lemons, "At the Margins of Law: Adjudicating Muslim Families in Contemporary Delhi" (Unpublished PhD Thesis: University of California, Berkeley, 2010), especially 28–57; Jeffrey Redding, "The Case of Ayesha, Muslim 'Courts' and the Rule of Law: Some Ethnographic Lessons for Legal Theory", *Modern Asian Studies* 48:4 (2014), 940–85; Sabiha Husain, "Shariat Courts and Question of Women's Rights in India", *Pakistan Journal of Women's Studies* 14:2 (2007), 73–102; Anindita Chakrabarti and Suchandra Ghosh, "Judicial Reform vs Adjudication of Personal Law", *Economic and Political Weekly* 52:49 (2017).

3 See, for example, Ido Shahar, *Legal Pluralism in the Holy City: Competing Courts, Forum Shopping and Institutional Dynamics* (Abingdon: Palgrave Macmillan, 2015); idem, "Legal Pluralism and the Study of Shari'a Courts", *Islamic Law and Society* 15:1 (2008), 112–41; Erin Stiles, *An Islamic Court in Context: an Ethnographic Study of Judicial Reasoning* (New York: Palgrave Macmillan, 2009); Susan Hirsch, *Pronouncing and Persevering: Gender and the Discourses of Disputing in an African Islamic Court* (Chicago: University of Chicago, 1998); John Bowen, *On British Islam: Religion, Law and Everyday Practice in Sharī'ah Councils* (Princeton: Princeton University Press, 2016); Morgan Clarke, "The Judge as Tragic Hero: Judicial Ethics in Lebanon's Shari'a Courts", *American Ethnologist* 39:1 (2012), 106–21. See also fn.6 and 15.

At present, three local women serve as *qāzīs* in Jaipur's *sharī'ah* court, and they are approached by Muslim women seeking *sharī* solutions to their difficulties. They offer a spectrum of services, including counselling, social intervention and guidance on formal litigation, and they deal with problems ranging from domestic wrangles (e.g. marital breakdown, or quarrels with in-laws) to proceedings in civil and family courts (e.g. child custody, or claims to post-divorce spousal maintenance) to criminal matters (e.g. domestic violence or rape). Sometimes, they offer advice and counselling to individual, vulnerable women who are in varying states of need or desperation; in other cases, they meet with husbands or with entire families. Every case is different, they say, as is the strategy for resolving it. The *qāzīs* claim to be offering an essential 'legal' service to the most vulnerable women, often from uneducated or marginalised backgrounds, who may be deterred from attending the official courts by their cultural remoteness, unfamiliar procedures or high fees. They claim willingness to handle cases brought by non-Muslims as well as Muslims, and men as well as women; in practice, however, Muslim women comprise the overwhelming majority of their petitioners.

The female *qāzīs* who run this and other *sharī'ah* 'adalats have built up formidable local reputations. They proudly wear their title, applying it to themselves both in personal introduction and in written correspondence. Likewise, they are referred to as *qāzīs* by the litigants they serve and by the residents of their neighbourhoods; one *qāzī* jokes that all they need now is a uniform. Far from being exclusively local bodies, however, these *sharī'ah* courts also receive petitions from further afield: current petitioners, according to the head *qāzī* of Jaipur, include an Indian couple living in Dubai, and a soldier posted in Kargil.

Individual female-led *sharī'ah* 'adalats have been operating in India in certain localities for some years,⁴ yet the consolidation of a tangible, even national 'sharī'ah court movement' is a recent phenomenon. The Bharatiya Muslim Mahila Andolan (Indian Muslim Women's Movement, known as the BMMA), a lobby of prominent Islamic feminist activists founded in 2007,⁵

4 An early women's *sharī'ah* 'adalat was established in Lucknow in 2005 by the All India Muslim Women's Personal Law Board, and a comparable body was set up in Pudukkottai, Tamil Nadu, by the Muslim Women's Jama'at, a local NGO, in 2004.

5 For a brief introduction to the BMMA, see Sylvia Vatuk, *Marriage and its Discontents: Women, Islam and the Law in India* (Women Unlimited: Delhi, 2017), 164–7 and Nida Kirmani, "Beyond the Impasse: 'Muslim Feminism(s)' and the Indian Women's Movement", *Contributions to Indian Sociology* 45:1 (2011): 12–23. The former distinguishes the BMMA from other Muslim women's rights groups and NGOs as a self-declared 'movement' that enrolls members directly on a national basis; the latter emphasises its willingness to engage religious ideas and texts directly, in contrast to other organisations.

launched its *sharī'ah* 'adālat programme in 2013, when it named its first four 'courts': first in Mumbai, then in Pune (Maharashtra), Ahmedabad (Gujarat) and Dindigul (Tamil Nadu). Since then, the network has expanded rapidly, with some two dozen women now claiming to be certified as 'qāẓī' by the BMMA. The largest of these 'adālat, such as those at Mumbai, Jaipur and Calcutta, each has multiple qāẓīs as well as designated offices and a number of volunteer support staff. In several other states, including Karnataka, Madhya Pradesh, Andhra Pradesh and Orissa, women linked to this network operate as qāẓīs in personal capacities and hold their own 'court' sessions. Moreover, the influence as well as number of these individual 'adālat is doubtless growing. In the year following the formation of the *sharī'ah* 'adalat movement, these courts reportedly handled approximately 300 cases collectively; now, each of the largest courts claims to be receiving close to 200 approaches per year.

Unlike some recognised or semi-official *sharī'ah* court systems in other countries, the BMMA's *sharī'ah* 'adālat, like their male-led equivalents, receive no formal recognition from India's judiciary.⁶ As non-state legal bodies, they have no official jurisdiction to make binding decisions and no capacity to implement them except through the voluntary compliance of their litigants. However, as I argue in this essay, these courts have in fact been able to craft their own forms of legal agency despite their lack of executive power, something that makes sense only when they are viewed within the context of the complex patchwork of legal and quasi-legal institutions that handle questions of so-called Muslim personal law (those relating to family matters such as marriage and divorce) in India.

India's legal structure for adjudicating family laws comprises an intricate and pluralist web of multiple legal pathways, in which the Indian state shares jurisdiction with a variety of informal, quasi-legal bodies. Thus, while Muslim marriages, divorces and other transactions can be adjudicated by official judicial institutions such as the civil and family courts, in practice they are also handled by a spectrum of non-state, community-based organisations, including *panchāyats* (local or community councils), *jamā'ats* (committees

6 On semi-formal *sharī'ah* judiciaries that are recognised within the legal systems of individual countries, see Michael Peletz, *Islamic Modern: Religious Courts and Cultural Politics in Malaysia* (Princeton: Princeton University Press, 2002); Jakob Skovgaard-Petersen, *Defining Islam for the Egyptian State: Muftīs and Fatwas of the Dar al-Ifta* (Brill: Leiden, 1997); Hussain Ali Agrama, *Questioning Secularism: Islam, Sovereignty and the Rule of Law in Egypt* (Chicago: University of Chicago Press, 2012); Max Weiss, "Institutionalizing Sectarianism: The Lebanese Ja'fari Court and Shi'i Society under the French Mandate", *Islamic Law and Society* 15:3 (2008), 371-407.

associated with mosques or other religious institutions), *dār-al-qazās* (*sharī'ah* courts), sect-specific religious organisations and civil society groups, as well as individual *muftīs* and local *imāms*.⁷ Together, these multiple legal bodies share jurisdiction within a complex, murky legal structure, classically characterised by Marc Galanter as one that simultaneously provides 'many rooms' for dispensing justice.⁸

The origins of this pluralist infrastructure for managing family laws, as Galanter implies, may have roots in the cultural alienness of the formal courts for many Indians, for whom they can appear slow, expensive and immersed in impenetrable judicial vocabularies, hierarchies and procedures. Others have instead interpreted India's legal pluralism as the product of an intentional 'shared adjudication model' for managing family laws, by which the state has delegated a degree of legal autonomy to community bodies as part of an unwritten contract of protecting the religious freedoms of its minorities.⁹ This elaborate model ensures that the workings of 'law' are sufficiently adaptable that they can find embodiments in the many cultural worlds of litigants. It also means that civil authorities, including lawyers and judges, are accustomed to accepting community-issued documents such as *nikāḥ-nāmahs* and *ṭalāq-nāmahs* (marriage and divorce certificates) as authoritative confirmations of marital status.

However, this same model simultaneously entrenches the power of informal and non-state legal systems, and ensures that the formal judiciary is absent from many everyday transactions of Muslim family law. As legal anthropologists have shown, perhaps a majority of Muslim marriages and divorces in India are enacted informally, without any civil registration or involvement

7 On informal bodies that adjudicate Muslim personal law in India's normative legal life, see Vatuk, *Marriage and its Discontents*; Lemons, "At the Margins of Law"; Redding, "The Case of Ayesha".

8 Much of Galanter's work on legal pluralism, in India and elsewhere, evokes "a world unevenly occupied by indigenous regulation, a world in which the influences that emanate from [state] courts mingle with those from other sources", and in which "the notion of comprehensive judicial control" by courts and official agencies is "an idle conceit" when examined alongside "the normative orderings that pervade social life." See his "Justice in Many Rooms: Courts, Private Ordering and Indigenous Law", *Journal of Legal Pluralism and Unofficial Law* 13:19 (1981), 32-4.

9 Gopika Solanki, *Adjudication in Religious Family Laws: Cultural Accommodation, Legal Pluralism and Gender Equality in India* (New York: Cambridge University Press, 2011): 41-50. On legal pluralism in India in the context of family and community laws, and details on how these laws are adjudicated on the 'margins' of the legal system, see also Flavia Agnes and Shoba Venkatesh Ghosh (eds.), *Negotiating Spaces: Legal Domains, Gender Concerns and Community Constructs* (Delhi: Oxford University Press, 2012).

by an official legal body.¹⁰ Several *qāẓīs* even told me that government personnel, from police to lawyers, sometimes try to ease their own workloads by telling Muslim women (inaccurately) that officials have no power to interfere in ‘your [Muslim personal] laws’, and use this pretext to convince women to redirect their requests for assistance, whether relating to divorce, custody or domestic violence, to their own community bodies or mosque committees.¹¹ Even the formal legal systems, therefore, sometimes seem inclined to push Muslim women into informal channels of dispute resolution, leading these *qāẓīs* to speak of themselves as performing what should be “the work of the courts” (*‘adālatōn kē kām*) in offering legal assistance to vulnerable women.¹²

The female-led *sharī‘ah* *‘adālat*s are thus a recent addition to India’s non-state domain of Muslim legal and arbitration forums. They act as self-appointed counterweights to the patriarchal structures and so-called ‘pervasive paternalism’ common to all of India’s official and non-official legal arenas.¹³ In this essay, I offer an account of the emergence, work and aspirations of India’s female-led *sharī‘ah* court network. In particular, I focus upon these *qāẓīs*’ pursuit of so-called ‘gender justice’ (an English phrase that the *qāẓīs* recurrently insert into spoken Hindi), which they seek to achieve through the local and practical implementation of *sharī‘* family law stipulations that are more responsive to Muslim women’s concerns.¹⁴ To do this, they have effectively appropriated the *sharī‘ah* court, that most patriarchal, male-dominated

¹⁰ Vatuk, *Marriage and its Discontents*, passim.

¹¹ Interview, Khatun Shaikh (*qāẓī*), Mumbai, 8 April 2017; interview, Jaib-un-Nisha (*qāẓī*), Dindigul, 15 August 2017.

¹² Interview, Jahan Aara.

¹³ On this “pervasive paternalism”, which has deep societal roots and informs both legal and non-legal worlds in India, see Sylvia Vatuk, “Where Will She Go? What Will She Do?” Paternalism toward Women in the Administration of Muslim Personal Law in Contemporary India”, in Gerald James Larsen (ed.), *Religion and Personal Law in Secular India: A Call to Judgment* (Delhi: Social Science Press, 2001), 226–50.

¹⁴ Interviews, Nishaat Husain (*qāẓī*), 22 August 2017; Nasreen Metai (*qāẓī*), 3 September 2017; Jaib-un-Nisha. The reference to ‘gender justice’, or ‘gender-just laws’, is resonant of vocabulary used by globally known Islamic feminists such as Amina Wadud, and thus illustrates the reach of this vocabulary even into local and vernacular articulations of women’s rights discourse in Muslim societies. It might be added that the *qāẓīs*’ use of this terminology usually denotes justice for women, although all *qāẓīs* claim to be also seeking fair outcomes for men in their practice.

institution of Islamic legal-social life, to exert women's religious agency and to find Islamic solutions to the difficulties faced by their female petitioners.¹⁵

I also explore the *sharī'ah* 'adālat movement as a specific, local manifestation of a global discourse of Islamic feminism. The female *qāzīs* in India are influenced by strategies familiar to us from the wider hermeneutics of modern Islamic feminist thought. Echoing the work of well-known Islamic feminist thinkers, they are reinterpreting the meaning of the Qur'an, seeking to recapture its central ethical message and to reject the later accretions of *ḥadīth* or *fiqh* to reconstruct a more egalitarian and compassionate body of Islamic family, marriage and divorce laws.¹⁶ Yet, the striking feature of the *sharī'ah* 'adālat movement is its attempt to implement these revised stipulations in everyday legal practice. The BMMA leadership, although well-versed in the main intellectual currents of Islamic feminism,¹⁷ is also conscious of the fundamental

15 This argument reflects work that has been done on *sharī'ah* courts in other contexts, which has consistently shown, perhaps ironically, that women make up much of the client-base of such institutions, chiefly because many stipulations of Islamic law specify that women need the agency of a male *qāzī* to enact divorces and other legal transactions on their behalf. The female clientele of *sharī'ah* councils is discussed in e.g. Susan Hirsch, *Pronouncing and Persevering*; Samia Bano, *Muslim Women and Sharī'ah Councils: Transcending the Boundaries of Community and Law* (London: Palgrave Macmillan, 2012), 181–220; Shaheen Sardar Ali, *Modern Challenges to Islamic Law* (Cambridge: Cambridge University Press, 2016); Nadia Sonneveld, *Khul' Divorce in Egypt: Public Debates, Judicial Practices and Everyday Life* (Cairo: American University in Cairo Press, 2012); Euis Nurlaelawati, "Muslim Women in Indonesian Religious Courts: Reform, Strategies and Pronouncements of Divorce", *Islamic Law and Society* 20:3 (2013), 242–71; Erin Stiles, "The Right to Marry: Daughters and Elders in the Islamic Courts of Zanzibar", *Islamic Law and Society* 21:3 (2014), 252–75.

16 On the wider context of feminist revisions of Islamic matrimonial ethics and laws through Qur'anic exegesis, see e.g. Asma Birlas, *Qur'an and Woman: Rereading the Sacred Text from a Woman's Perspective* (Oxford: Oxford University Press, 1999), 62–93; idem, "Believing Women" in *Islam: Un-reading Patriarchal Interpretations of the Qur'an* (Austin: University of Texas Press, 2003), 167–202; Ziba Mir-Hosseini, Mulki al-Sharmani and Jana Rumminger (eds.), *Men in Charge: Rethinking Authority in Muslim Legal Tradition* (London: OneWorld, 2014); Karen Bauer, *Gender Hierarchy in the Qur'an: Medieval Interpretations, Modern Responses* (Cambridge: Cambridge University Press, 2015), 161–269.

17 The *sharī'ah* 'adālat movement leaders frequently reference feminists like Amina Wadud, Riffat Hassan and Fatima Mernissi, who they understand as having sought to 'recover' an authentic *sharī'ah* based on the Qur'an's ethical guidance. Noorjehan Safia Niaz, "Women's Shariah Court, Muslim Women's Quest for Justice" (Notion Press: Chennai, 2016), 42–47. This latter source, authored by one of the BMMA's co-founders, is a report on the organisation's *sharī'ah* 'adālat movement.

problem of the translatability of the Islamic feminist project: how might a hermeneutic exercise of reinterpreting the Qur'an and revising *fiqh*, conducted in an abstract and elite sphere of academic discourse, apply meaningfully to the normative realities of daily life?¹⁸ The movement argues that women's collective 'strategic needs' for the structural acceptance of their equality and rights across society and politics must be addressed alongside the specific, everyday 'practical needs' of individual women, if they are to hold real value for the latter.¹⁹ The female-led *sharī'ah* 'adālat^s seek to fulfil this very function, by giving local meaning to global Islamic feminist revisionism and by implementing gender just *sharī'* laws in the lives of women in contemporary urban India.

I base this study on a range of sources, including internal documents and official releases from the BMMA, newspapers, discussions with women's rights activists and professional clerics and, most importantly, interviews with five of the courts' sitting *qāzīs*, including the 'head *qāzī*' of the three major 'adālat^s in Mumbai, Dindigul and Jaipur.²⁰ The next two sections of the article trace the background of the *sharī'ah* 'adālat movement, focusing on its origins in global Islamic discourses of juristic reform and in the local context of India's non-state dispute resolution arenas respectively. The subsequent sections explore the judicial practice of these forums, including their 'Islamic' techniques of arbitration and mediation, and their engagements with a range of state and non-state strategies for pursuing justice for women.

Woman as Islamic Judge: Local Animations of a Global Debate in Islamic Feminism

Before turning to the urban locales in which these *sharī'ah* courts operate, let us begin with a few observations on a global debate within Islamic feminism to which the BMMA makes reference: the contemporary rethinking of the question of the legitimacy of the female *qazā* (judgeship) in Islam. By normative

18 On the problem of the cultural translatability of Islamic feminist discourse, see Margot Badran, *Feminism in Islam: Secular and Religious Convergences* (OneWorld: London, 2009).

19 Niaz, "Women's Shariah Court", 10–11. Intriguingly, this feminist framework, which classifies women's needs as either "strategic" or "practical", seems to be drawn from a well-known article on the patriarchal assumptions that inform the governance of socialist states. See Maxine Molyneux, "Mobilization without Emancipation? Women's Interests, the State and the Revolution in Nicaragua", *Feminist Studies* 11:2 (1985), 232–35.

20 The other *qāzīs* interviewed by me are from Jaipur and Hospet (Karnataka).

expectation, the office of *qāzī* has been an almost entirely male one in Islamic legal thought and practice. Support for the contention that only men may hold the Islamic judgeship is found in the Qur'anic principle of *qiwāmah* (as in 4:34, which stipulates male custodianship over women),²¹ historical precedent among and since the time of the Companions, and *ḥādīths* such as "those who appoint a woman over them will never prosper." Linked stipulations, such as procedures relating to *shahādah* (witness testimony), which famously ask for two female witnesses in place of one male, seem to imply the lesser legal acumen and qualification of women. South Asian digests of Islamic law (*furū'*) and *fatwā* compilations, medieval and modern alike, often make explicit or implicit assertions that a *qāzī* must be a mature Muslim male.²²

Historical hostility to the appointment of female religious judges, especially in South Asia, explains the censure that these *sharī'ah* courts received upon their foundation. As Mumbai's head female *qāzī* recalls, local *mullahs* treated the female *qāzīs* with disdain when they began their legal work, instructing that they should "sit at home and manage the house."²³ In Jaipur, a male *qāzī*, Khalid Usmani, pronounced that "their interpretation of Islamic law is wrong and their becoming *qāzīs* is an unusual thing. It does not fit into the social set up."²⁴ Members of the Jama'at-i-Islami took to media claiming that, while there is no explicit restriction within Islamic law on female *qāzīs*, women may be prone by their fundamental character (*shakhṣ*) to make erroneous decisions.²⁵ Others have simply sought to deprive female *qāzīs* of their claims to religious authority by referring to them as counsellors or social workers, rather than Islamic judges.

21 For an Islamic feminist reinterpretation of *qiwāmah*, see Mir-Hosseini et al, *Men in Charge*.

22 Such claims were made in influential *fatāwā* compilations such as the twelfth-century *al-Hidāyah* and seventeenth-century *Fatāwā-i-Ālamgīriyah*. In one of the most important modern South Asian texts on *qazā*, Ashraf 'Alī Thanawi also insisted that the *qāzī* must not be clean-shaven. Ashraf 'Alī Thanawi, *Al-Ḥīlat al-Nājizah ya'nī Mazlūmī 'Aūratōn kī Mushkilāt kā Shar'ī Ḥāl* (Delhi: Maktabah-i-Deoband, 2005 [1932]), 35–36.

23 Interview, Khatun Shaikh.

24 <http://www.huffingtonpost.in/2016/02/08/rajasthan-qazi-women_n_9186394.html> (last accessed: 28 December 2017).

25 A handful of clerics in South Asia have offered support to the *sharī'ah 'adālat* movement. Nor-ul-Haq, an *imām* from Ajmer, asked why, if Razia Sultan could become a ruler, a woman should not become a *qāzī*? <http://www.huffingtonpost.in/2016/02/08/rajasthan-qazi-women_n_9186394.html> [last accessed 28 December 2017]. Even a few Deobandi *'ulamā* have offered cautious support.

In much of the Islamic world, however, there has been a discernible push for the creation or expansion of a female judgeship.²⁶ In recent decades, the governments of many Muslim countries have actively pursued the so-called feminisation of the state judiciary, with the aim of promoting the courts' gender sensitivity through proactive measures to appoint women as local and higher court judges. In Tunisia, for example, there has been a determined push to recruit women into the court system, with the result that today most family law cases are now decided by female judges.²⁷ Pakistan has seen a comparable increase of appointments of so-called 'lady judges' at multiple levels of the state judiciary in the last decade.²⁸ In a range of other Muslim-majority states, legislators have proposed that the appointment of female judges to handle family disputes will better serve the legal needs of women and children.²⁹ These state-led initiatives to open up judicial careers to women reflect the assumption that a female judge is more likely, by temperament and personal experience, to adjudicate with women's needs in mind.³⁰

More surprising, perhaps, is the integration of women as religious judges into officially recognised *shari'ah* judiciaries in several Muslim-majority countries, especially over the last decade. In Indonesia, the longest-standing example, women have served as judges in the state's Islamic court (Pengadilan Agama) system since 1989, and the number of female judges has increased considerably since the mid-1990s. At present, female judges are regularly recruited to chair municipal and district *shari'ah* courts, where they decide cases

26 On the appointment of female judges in the Islamic world, see Nadia Sonneveld and Monika Lindbekk (eds.), *Women Judges in the Muslim World: A Comparative Study of Discourse and Practice* (Leiden: Brill, 2017).

27 Maaïke Voorhoeve, *Gender and Divorce Law in North Africa: Sharia, Custom and the Personal Status Code in Tunisia* (London: I.B. Tauris, 2014), 65–73.

28 Rubya Mehdi, "Lady judges of Pakistan: embodying the changing living tradition of Islam", in Sonneveld and Lindbekk (eds.), *Women Judges*, 204–36.

29 John Esposito, *Women in Family Law* (Syracuse: Syracuse University Press, 1982), 61. The policy of appointing female judges to ensure fairer settlements for women in family matters has also been raised in India. See Srimati Basu, *The Trouble with Marriage: Feminists Confront Law and Violence in India* (Delhi: Orient Longman, 2015), 54.

30 There is a long-standing debate on whether adjudication by female judges affects judicial outcomes in Muslim and non-Muslim societies. On this question, see e.g. Ulrike Schlutz and Gisella Adams (eds.), *Gender and Judging* (Oxford: Hart, 2013). Many of the essays in Sonneveld and Lindbekk (eds.), *Women Judges*, argue that the gender of the judge usually has minimal impact upon judicial outcomes, although there is clearly a wide cultural assumption that a female judge's gender does influence her decisions.

that pertain overwhelmingly to family affairs.³¹ Similarly, in Malaysia, the council of the Syariah (*sharī'ah*) Court system appointed its first two female judges, Rafidah Abdul Razak and Suraya Ramli, amidst much publicity in 2010.³² Even greater publicity accompanied the appointment in 2009 of Khoulood al-Faqih, said to be the Arab world's first female *sharī'ah* judge, to the *sharī'ah* court in Ramallah.³³ Female religious judges also operate within non-state *sharī'ah* councils in other countries, including Amra Bone, who adjudicates in the Shari'a Council of Birmingham in the UK.³⁴

This wave of appointments of female religious judges has renewed a debate on the legitimacy of the female judgeship in Islamic reformist and feminist thought. Despite the common assumption that the office of the *qāzī* is reserved for men, classical jurists never reached consensus, offering opinions ranging from a complete prohibition of the judgeship to women, to a partial or full acceptance of women's assumption of the office.³⁵ India's female *qāzīs* state with conviction that one finds no explicit prohibition of female judges in the Qur'an or *ḥadīth*. Instead, they insist, the Qur'an regards women as possessing the same faculties of reason and sound judgement (*'aql, adālah*) as men, which suggests that women hold the same qualifications of character and ability to act as judges.³⁶ The ambiguity surrounding the issue enables India's Muslim feminists to defend the appointment of female judges with conviction.

Supporters of the female judgeship in India and elsewhere have been able to call upon several further lines of justification. When asked why there are so

31 Euis Nurlaelawati and Arskal Salim, "Gendering the Islamic judiciary: female judges in the religious courts of Indonesia", *Al-Jami'ah* 51:2 (2013): 247-78. These *sharī'ah* courts, which are overseen by the Ministry of Religious Affairs, comprise one of several court systems recognised within the Indonesian judicial structure.

32 Ibid., 255-6.

33 Khoulood al-Faqih is the subject of a recent documentary film, produced in Canada. <<https://www.thejudgefilm.com/>> (last accessed 20 January 2017).

34 Amardeep Bassey, "The UK's First Female Sharia Council Scholar: 'I am Championing Women's Rights'", <https://www.huffingtonpost.co.uk/entry/the-uks-first-female-sharia-judge-i-am-championing-womens-rights_uk_5b3b98d7e4b09e4a8b27dd91> [last accessed: 12 September 2018].

35 In one of few academic treatments of the subject, Karen Bauer argues that the Hanafi law school has been the most permissive in permitting women to be judges, with some jurists allowing women to serve on matters that do not involve punitive measures (*ḥudūd, qisās, ta'zīr*). A minority of jurists, including Ibn Jarīr al-Ṭabarī (d. 923 CE), argued that women could judge on all issues, just as they could act as *muftīs*. Karen Bauer, "Debates on women's status as judges and witnesses in post-formative Islamic law", *Journal of the American Oriental Society* 130:1 (2010), 1-21.

36 Interview, Zakia Soman (BMMA leader), 11 January 2017; Interview, Jahaan Ara.

few female *qāzīs* in Islamic history, one contemporary *qāzī*, Nasreen Metai, invokes a line of socio-historical argument. She argues that assumptions in some lines of classical Islamic thought about the lesser status of women as legal authorities, whether as witnesses or judges, are based not on their intellectual unfitness, but on their social confinement. A woman who is restricted to the home can scarcely act as a witness to events outside of it, or recognise faces or voices with complete reliability; by analogy, a woman confined to the home is unqualified to serve as a judge in public life.³⁷ If the traditional relegation of women to private spaces is being eased in contemporary times, the argument follows, then so too should be the laws stipulating women's ability to serve as witnesses, or to take on other legal responsibilities such as those of the judge

India's female *qāzīs* also argue that certain women did in fact serve as legal professionals from the time of the Companions onwards.³⁸ While social constraints prevented most women from serving as judges, they argue, some did act as *mufītīs* (jurists). They cite in particular the example set by the Prophet's wife, A'isha, who is remembered in South Asia and elsewhere for her *iftā'* (issuance of *fatwās*) to the Companions throughout the reigns of the first three caliphs.³⁹ The *qāzīs* portray A'isha as proof of Islam's validation of women serving as legal professionals, and they present themselves as perpetuating her legacy

37 Some modern advocates for the reform of witness testimony laws point out that Hanafi jurisprudence sometimes treats female witnesses as equal to male witnesses with regard to circumstances with which women have direct experience, such as birth, fosterage or nursing. Some South Asian '*ulamā*', quoting Abū Hanīfah and Ibn Ḥazm, have argued that the equal status of female witnesses is established whenever their acquaintance with the evidence can be confirmed. See, for example, 'Abd-al Islām Nadvī, *Al-Qazā fī al-Islām* (Lucknow: Dar-al-Maṭbah Mu'ārif-i-Ṭabah, 1929), 53-4. See also Bauer, *Gender Hierarchy*, 67-97.

38 Global Islamic feminists have used a similar approach. Fatima Mernissi, for example, recalls the model of Ṭhumal al-Qahramān, who acted as the head of the *mazālim* court system (the rough equivalent to administrative/civil courts). Describing her as one of the "forgotten queens" of Islam's classical period, Mernissi argues that she was erased from the Islamic historical narrative by later Muslim historians, at the behest of their aristocratic male patrons. Mernissi, *The Forgotten Queens of Islam* (Minneapolis: University of Minnesota, 1997), 42-3; Bauer, "Debates on Women's Status", 20-21.

39 Perhaps the most significant and influential South Asian study of A'isha is Syed Suleiman Nadvi's biography, *Sīrat-i-A'ishah*, first serialised in the Urdu press in 1906-8. The text authoritatively restates A'isha's importance as a major jurist, and pays particular attention to *fatwās* issued by her that improved women's legal rights, including in matters of divorce and inheritance. Syed Suleiman Nadvi, *Sīrat-i-A'ishah* (Lahore: Maktabah Islāmīyah, 2005), 224-44.

of offering religious guidance to women. Indeed, they often quote her when called upon to justify their legal occupation:

We have kept our training and knowledge as close as possible to that of the Prophet's wife. On one occasion, we were on a TV programme with a [male] *mufti*, who mocked us by asking whether we had the same level of knowledge as did A'isha. We responded by asking whether men today have the same level of wisdom as the Prophet.⁴⁰

This invocation of A'isha by these contemporary female *qāzīs* is an example of how a global debate among Muslim scholars concerning the legitimacy of the female judgeship is being manifested in a particular local setting. By assuming the office of *qāzī*, the female *qāzīs* are translating potentially remote Islamic feminist efforts to reconsider Islamic legal teachings and defend the validity of female legal agency judges into a more visible and practical reality, as expressed through their adjudications within individual Muslim women's lives.

From Counsellors to *Qāzīs*: Building the *Sharī'ah* Court Movement

Let us turn now to the foundation of these courts, and specifically, their self-declared status as 'Islamic' dispute resolution institutions. Why do their leaders take on the contested title of *qāzī* rather than the more consensual status of counsellor or social worker, and why did they choose to give these informal legal bodies the equally controversial moniker of '*sharī'ah 'adālat*'? Moreover, how have these *qāzīs* sought to authenticate their courts as legitimate Islamic legal institutions?

These questions are significant because most of these *qāzīs* began their work in non-confessional *māhilah mandals* (women's circles) or *nyāya pan-chāyats* (dispute resolution forums), working chiefly as counsellors and providing so-called 'legal aid'.⁴¹ Khatun Shaikh, the indomitable head *qāzī* in Mumbai and one of the main architects of the *sharī'ah 'adālat* movement, is one case in point. As she recounts, she has worked as a civil society activist for twenty-five years. Prior to founding Mumbai's *sharī'ah 'adālat*, she worked for the city's Mahila Shakti Mandal ('Women's Empowerment Committee'), a non-governmental organisation that provides legal advice and counselling to

⁴⁰ Interview, Jahan Aara.

⁴¹ The term "legal aid", as used by respondents, denotes legal guidance, within both formal and informal legal channels.

women in poor, chiefly Muslim neighbourhoods.⁴² Other prominent leaders of the *sharī'ah* 'adālat movement have a similar personal history. Nishaat Husain, head *qāzī* of the *sharī'ah* 'adālat in Jaipur, worked from 1989 onwards in charitable provision and counselling services for women in northern Jaipur, especially those with absent or imprisoned husbands.⁴³ Both of these *qāzīs* identify the major Hindu-Muslim riots in their respective cities (Jaipur 1990, Mumbai 1992-3) as major turning points. The violence, they argue, increased deprivation and ghettoization in Muslim areas and made Muslims even more reluctant to approach government courts or civic institutions for help, thus increasing demand for alternative legal services, especially among women.

In all cases, the *qāzīs* claim that their decision to transform their formerly 'secular' legal aid groups into Islamic *sharī'ah* 'adālat was a response to the fact that many of the issues that they were encountering fell into the domain of Muslim personal laws. Frequent meetings with female victims (whom the *qāzīs* term 'survivors') of actions like triple-*ṭalāq* divorce, *ḥalālah* (see below), abandonment or mistreatment by husbands, together with pressure from husbands or in-laws to surrender their claims to *mahr* (bridal gift) or to pay their own dowry (*lēn-dēn*) were, and remain, among the issues that they encounter most regularly. "Once we joined the BMMA", Nishaat recalls, "we decided that since so many problems were coming up for reasons of *sharī'ah*, we should rename our centre a *sharī'ah* 'adālat."⁴⁴ Thus, the conversion of local legal aid groups into 'Islamic courts' was largely a pragmatic decision, taken to allow these *qāzīs* to prescribe solutions to problems of Muslim family law from *within* an identifiably Islamic institution.

This decision to present these forums as '*sharī'ah* 'adālat' rather than legal aid centres also reflects their leaders' identification of the roots of their clients' difficulties. The *qāzīs* insinuate that neither the state nor the official courts are the principle source of women's problems. Rather, it is male clerics, such as local *imams* or preachers, and male-dominated community institutions such as mosque *jamā'ats*, that perpetuate patriarchal conventions within their community settings and cause injustice to women. The female *qāzīs* claim that these male religious leaders are often disinclined to reflect upon the legal needs of Muslim women. Male *qāzīs*, they argue, can be corrupt and patronis-

42 Interview, Khatun Shaikh; Noorjehan Safia Niaz, "Women's Shariah Court", 49-56.

43 The career of Jaib-un-Nisha, head *qāzī* in the small city of Dindigul, begins a few years later than that of Khatun Shaikh or Nishaat Husain, but is otherwise comparable: her contact with NGOs commenced during relief work in coastal Tamil Nadu after the 2004 tsunami. Interview, Jaib-un-Nisha.

44 Interview, Nishaat Husain.

ing; they fail to take proper consideration of women's perspectives, and they demand female obedience to husbands. They are sometimes too quick to accept male declarations of divorce, including instant triple-*ṭalāq* (even when it is executed by telephone or WhatsApp), and do not emphasise sufficiently the desirability of marital reconciliation or amicable divorce in preference to unilateral separation. Moreover, they often inherit titles like *imām* or *qāzī*, but do not possess any proper training in Islamic family laws.⁴⁵ Similarly, mosque *jamā'ats* represent similar 'structures of patriarchy' that uphold local male interests and make important decisions affecting women's lives inside mosque spaces that women are not even permitted to even enter.⁴⁶ Thus, powerful community institutions, like male-led *sharī'ah* courts and mosque committees, make the male clerical body rather than the formal judiciary the female *qāzīs'* real challenge and compel female Muslim activists to engage the *sharī'ah* directly. In turn, these women have been compelled to adopt the persona of religious authority: as Nishaat puts it, "our word has more value as a *qāzī* than as an activist."⁴⁷

In an effort to win community recognition for the *sharī'ah 'adālat*s as legitimate 'Islamic' bodies, the BMMA has established a formal training programme for these *qāzīs*. Called the Dar-ul-'Uloom-i-Niswan, this is not a brick-and-mortar *madrasa* (school) as the name implies, but a training programme that takes place over a number of months and gives its graduates a stamp of qualification equivalent to a *madrasa* certificate.⁴⁸ Its curriculum encapsulates the central tenets of the brand of Islamic feminism promoted by the BMMA. For instance, the language of delivering instruction in 'Qur'anic law', pointedly different from the '*sharī'at*', is an example of the BMMA's argument that the 'spirit' of the Qur'an must be recovered in order to combat the aberrations that have crept into Islamic law through later *ḥadīth* and *fiqh*. In addition to echoing global Islamic feminist methodology, the training programme also draws on certain strands of liberal Islamic political thought. The curriculum's promise to com-

45 Interview, Khatun Shaikh.

46 Interview, Jaib-un-Nisha.

47 As the BMMA claimed: "[Our] renaming [of the *sharī'ah 'adālat*s] is a very political act, as the members now work as a Shariah court which so far was considered the domain of Muslim men. By renaming itself as Shariah Court, Muslim women have reclaimed Muslim men's hegemony and control over religion and its various institutions. Muslim women can also intervene effectively in shariah matters and provide platforms for women to seek justice in family matters hitherto denied to them by the male shariah courts." Niaz, "Women's Shariah Court", 58.

48 BMMA, "Darul Uloom-E-Niswaan Institute of Qaziat For Women" (2015): this internal document is a syllabus of the training programme.

bine training in 'Quranic law' and 'Constitutional Law', for instance, indicates the influence of certain Indian Islamic thinkers such as Asghar Ali Engineer upon the BMMA.⁴⁹ The programme therefore reflects the BMMA's core principle that these two bodies of law promote fundamentally identical values of human dignity, equality and justice. As one of the first batch of trained *qāzīs* put it, "Our training was in Islamic law and the Indian Constitution, and whether ... they [both] give us equal status and equal rights. They are there in the *ayats*: not codified but still there. So we can take our rights from [both] the Qur'an and the Constitution."⁵⁰

Their self-designation as legitimate authorities within Islamic law distinguishes these *sharī'ah* courts, and the wider project of the BMMA, from another set of civil society groups that also aspire to improve women's (and especially Muslim women's) legal rights. Well-known organisations established in an earlier generation of Muslim women's activism, such as Awaz-i-Niswan (founded 1987), the Muslim Women's Rights Network (1999) and the Muslim Women's Forum (2000) have led public debates over protecting Muslim women's rights for the last two decades, but they have mostly refrained from directly engaging the project of Islamic jurisprudence or the revision of *sharī'ah*.⁵¹ Instead, they have focused upon state-facing strategies, like advocating piecemeal legislative reforms to Muslim personal law, and upon other societal initiatives, including sponsoring legal awareness campaigns and advice groups, and offering case-based guidance to court judges.⁵² The strategy of the *sharī'ah* 'adālat is quite different. Instead of taking an incremental approach focused on court handling of Islamic laws or legislative intervention, they have attempted to amend these laws from within the Islamic tradition by reigniting a 'spirit' of legal interpretation that looks to a central ethical message within the Qur'an.

This strategy of interpreting Islamic law directly is distinctive to the new wave of Muslim feminist activism embodied by the BMMA and its 'adālat. Their change of approach illustrates a clear engagement with Islamic feminist

49 The BMMA held a consultation with Asghar Ali Engineer and other liberal Indian Muslim intellectuals in 2013, the year of the foundation of the *sharī'ah* 'adālat campaign. On Engineer's contributions to Islamic feminism, see Asghar Ali Engineer, *Rights of Women in Islam* (Delhi: Sterling Publishers, 2004); Shadaab Rahemtulla, *Qur'an of the Oppressed: Liberation Theology and Gender Justice in Islam* (Oxford: Oxford University Press), 53–95.

50 Interview, Jahan Aara. C.f. BMMA, "Darul Uloom-E-Niswaan".

51 On these organisations, see Sylvia Vatak, "Islamic Feminism in India: Indian Muslim Women Activists and the Reform of Muslim Personal Law", *Modern Asian Studies* 42:2/3 (2008), 497–501.

52 Ibid.; Solanki, *Adjudication in Religious Family Laws*, 23.

hermeneutics and greater willingness to express opinions on the stipulations of the *sharī'ah*, unlocking the Qur'an's messages of women's equality and amicable social relations, and recovering its central ethic from later elaborations of *fiqh*. This alternative strategy of Muslim feminist action has been prompted by a wider trend towards the democratisation of religious knowledge, which has empowered female religious voices to challenge the law from within. However, just as importantly, their change in strategy reflects their perspective that state-focused attempts to promote Muslim women's rights in contemporary India have been inadequate to this challenge.⁵³ Instead, the leaders of the *sharī'ah* 'adālat consider themselves to be fighting their cause in an informal legal world from which the state is often absent, which, in turn, means employing more explicitly the techniques of 'legitimate' Islamic dispute resolution.

Arbitration and Dispute Resolution in Everyday *Sharī'ah*

How do these *sharī'ah* 'adālat operate in their own, local environments, and what procedures do they use? Let us consider a typical open session at one of these *sharī'ah* 'adālat (which are normally held several times a week), to see how these organisations function in their normative legal world. Held in a furniture-less, hot room, with all participants sitting on floor mats, the session is presided by the sitting *qāẓī* and two or three staff who serve as registrars and notetakers. A family from the outskirts of the city are in attendance: a married couple, accompanied by their young daughter, and the husband's parents. The wife is furious with her despondent husband, whom she accuses of frequent absences, drunkenness and failure to provide adequate provision for her and their child. During prolonged, heated exchanges, the wife, husband and parents hurl accusations and denials at each other. Finally, the *qāẓī* and her staff draft a written agreement (*iqrār-nāmah*) outlining an agreed course of action, according to which the husband must correct his behaviour and his parents must monitor his doing so. The agreement is then signed and distributed to all

53 A key example is the response of the legislature to the Shah Bano affair of 1985-86, when the sitting government refrained from implementing changes that would expand the rights of Muslim women to claim maintenance from former husbands. Since the late-1980s, there has been a widespread recognition among civil society activists that the central state is likely to adopt an ongoing, unstated position of 'non-interference' in Muslim personal laws, for reasons of both legislative constraints, judicial independence, and importantly, political pressures from Muslim community bodies. For background, see Rina Verma Williams, *Postcolonial Politics and Personal Laws: Colonial Legacies and the Indian State* (Delhi: Oxford University Press, 2006), 125-150.



FIGURE 1 A BMMA *shar'ah 'adalat* in session (image provided by the BMMA).

parties present, and the family departs with, in theory, a strategy for resolution. A nominal fee is charged (although, I am told, *qāẓīs* waive this fee when it is beyond the means of their petitioners).

A few features of this fairly typical morning of work are particularly striking. One is the informality of these 'court' sessions. Unlike the procedural atmosphere of a formal courtroom setting, here doors remain open, participants walk in and out and interrupt each other, and a child crawls around the courtroom. There are no lawyers (although family members effectively take on this role by speaking for the main parties), and proceedings become so heated that the the *qāẓī* struggles to maintain order. Yet, these same conditions give these sessions an atmosphere of openness, approachability and lack of hierarchy, quite different from the stifling and bureaucratic atmosphere of the civil and family courts.⁵⁴ Only in an environment such as this, we may infer, may the most vulnerable women be drawn out of their silence.

Whenever possible, the *qāẓīs* seek to resolve such family conflicts outside the structures of formal institutions, chiefly by facilitating dialogue rather than

54 Srimati Basu hints at the difference of atmosphere and approach between alternative dispute resolution venues and civil courts. Basu, *The Trouble with Marriage*, 97–101.

initiating litigation. As one *qāzī* states, "we don't go to the police or the courts much; we mostly work through counselling and by talking to both parties, and we keep records of whatever conversation and dialogue we hold with them."⁵⁵ Another *qāzī* similarly claims that "we try to solve most cases just through counselling. Very few cases need to go out and get external support."⁵⁶ This approach, they add, means that in most of their matrimonial cases, the *qāzīs* are employing the proper strategies for Islamic dispute resolution as sanctioned by the Qur'an: arbitration (*taḥkīm*) and mediation (*waṣāṭah*, *ṣulḥ*).⁵⁷ These strategies are mentioned in the Qur'an in the context of repairing marital breakdown, and all *qāzīs* stress that their fundamental goal is to facilitate the reconciliation of a struggling couple whenever it might be viable. The emphasis of Islamic law and hence of the *sharī'ah* 'adālat, they argue, is to re-establish good family relationships and to reduce family conflict rather than to exacerbate it (as, perhaps, the formal courts can sometimes do through their adversarial procedures).⁵⁸

The *qāzī* reminds me that these principles of mediation and arbitration have distinguished roots within the Islamic legal tradition.⁵⁹ Indeed, academic scholars like Aida Othman have elaborated upon how dispute resolution strategies were applied by the Companions in the generations before the standardisation of a state-led judicial procedure (*qaṣā'iyā*) beginning in the Abbasid period.⁶⁰ This may explain why these arbitration and mediation procedures have been appropriated widely by non-state Islamic dispute resolu-

55 Interview, Khatun Shaikh. This is not to say that they bypass the latter, and, as I describe below, the *qāzīs* frequently direct women towards the judicial system and other official forums when they consider it appropriate.

56 Interview, Jahan Aara.

57 Interview, Khatun Shaikh; Niaz, "Women's Shariah Court", 15.

58 Ibid.

59 On these two legal principles, see *ET*³ (online: Brill, 2018), s.v.v. *Taḥkīm* (M. Djebli) and *Ṣulḥ* (M. Khadduri); Sayed Sikander Shah, "Mediation in Marital Discord in Islamic Law: Legislative Foundation and Contemporary Application", *Arab Law Quarterly* 23:3 (2009), 339-40. Lawrence Rosen has argued that *muftīs* and *qādīs* foreground the principles of arbitration and mediation when resolving disputes so as to re-establish social harmony and avoid litigation, whenever possible. Lawrence Rosen, *The Justice of Islam* (Oxford: Oxford University Press, 2000). A similar point is made by Michael Peletz with regard to Malaysia's *sharī'ah* courts: "the central goals of the kadi ... are to get people back to a situation where they can successfully (re)negotiate their relationships ... providing a forum, such as the kadi's chambers ... in which people can ideally thrash out and resolve their differences." Peletz, *Islamic Modern*, 120.

60 As argued in Aida Othman, "And Amicable Settlement is Best': *Ṣulḥ* and Dispute Resolution in Islamic Law", *Arab Law Quarterly* 21:1 (2007), 64-90. The role of the *qāzī* as

tion bodies, including by more traditional, male-run *sharī'ah* councils in India and in many Muslim minority societies.⁶¹ These methods carry legitimacy as dispute resolution mechanisms in Islamic legal practice, and they arguably represent the clearest means of executing *sharī'* decisions in societies in which Islamic law is not implemented by the official judicial system.

This contemporary shift of emphasis in Islamic legal thought from judgment (*qazā*) to mediation and arbitration may well open up expanded legal roles for female practitioners. While many *fiqh* texts prohibit women from acting as *qāzīs* on the grounds that this would require them to administer executive punishments (*ta'zīr*, *hudūd*, *qisās*), which in turn would contradict principles such as *qiwāmah*, these same works stipulate that women may serve as mediators and arbitrators on non-penal matters.⁶² Thus, in contemporary India, where the *qāzī* has no access to the penal system and functions chiefly as an inter-personal negotiator, there can be no constraint within *sharī'ah* on women taking up such roles.

This emphasis on arbitration and conciliation has exposed these *sharī'ah* 'adālat^s to some criticism. Detractors of these courts, including more secular-leaning women's rights NGOs, warn that their emphasis on non-state dispute resolution channels may, like the more traditional male-led *sharī'ah* 'adālat^s, work against the best interests of vulnerable wives. For instance, Flavia Agnes, activist and leader of the Mumbai-based women's rights NGO Majlis, has argued strongly that facilitating women's access to formal judicial institutions like the civil and family courts represents the best strategy for protecting the rights of Muslim women. Indian legislators and judges, she argues, have proven adept at finding incremental ways to protect women from the potential consequences of Muslim personal law, through both legislative intervention and case precedent.⁶³ By contrast, non-state forums such as the *sharī'ah* 'adālat^s, which she characterises as little more than "counselling centres" or "NGO[s] devoid of any power or authority to enforce orders", risk guiding women on an uncertain path deeper into informal legal spaces. The danger of such bodies, she argues, is that they may unwittingly perpetuate women's ig-

mediator is emphasised in a number of male-authored *adāb-al-qāzī* writings from modern South Asia, e.g. Nadvī, *Al-Qazā fī al-Islām*, 7-9.

61 Bano, *Muslim Women and Sharī'ah Councils*, 101-11.

62 As in *Fatāwā-i-Hindīyah*, vol. 3. Mahdi Zahraa and Nora A. Hak, "Tahkīm (Arbitration) in Islamic Law within the Context of Family Disputes", *Arab Law Quarterly* 20:1 (2006), 20.

63 Examples include Section 125 of the Criminal Procedure Code (granting all women the right to claim post-divorce maintenance), and landmark court verdicts such as the Shabnam Hashmi case (2014, guaranteeing Muslims' access to child adoption legislation) and the Shayara Bano case (2017, rejecting the legal validity of *ṭalāq-i-bid'āh*).

norance of their formal legal rights, prolong “the denial of crucial rights to the concerned woman”, and further entrap women within the same community-level structures that have caused their difficulties.⁶⁴

In response to Agnes’ claim that these *sharī‘ah* courts are powerless, however, we might argue that the unofficial status of these courts gives them far more real legal power than they might otherwise enjoy as official bodies. They are situated at a healthy distance from India’s state judiciary, which is often perceived as alien and impenetrable by marginalised Muslim communities. Moreover, and most importantly, India’s model of shared adjudication of family laws between state and non-state forums means that community-level arbitrators can execute matrimonial or divorce transactions that are to all intents and purposes recognised at both community and official levels, so long as they have the consent of all parties.

For instance, all *qāzīs* report that they negotiate divorces cases and, they explain, when their petitioners agree to their role in mediation, any courses of action that they recommend or written agreements that they issue will be acknowledged as authoritative decisions. Some of the *qāzīs* report having facilitated the negotiation of *khula’* divorce, which entails persuading a husband to agree to separation at the will of the wife in exchange for the return of her *mahr*.⁶⁵ *Khula’* in most contemporary Muslim societies is now adjudicated by official bodies, such as government courts or certified registrars or arbitrators.⁶⁶ In India, however, while family courts can officiate *khula’* procedures, women’s *sharī‘ah* ‘*adālats* and other community forums often also help to elicit consensual, authoritative *khula’*s without calling upon any state legal institution for certification. Within the domain of community-led law, therefore, these *qāzīs* have found ways to exert agency in brokering marriage and divorce arrangements, despite holding no executive appointment to do so.

64 E.g. Flavia Agnes, “This Muslim organisation’s campaign for a ban on triple talaq is commendable but blinkered”, *Scroll*, 20 June 2016. <https://scroll.in/article/810020/this-muslim-organisations-campaign-for-a-ban-on-triple-talaq-is-commendable-but-blinkered> [last accessed 5 August 2017].

65 Interview, Nishaat Husain; Interview, Jaib-un-Nisha.

66 For examples of state-administered *khul’* procedures, see Sonneveld, *Khul’ Divorce*; Mulki Al-Sharmani, *Gender Justice and Legal Reform in Egypt: Negotiating Muslim Family Law* (Cairo: University of Cairo Press, 2017); Zubair Abbasi, “Judicial *Ijtihād* as a Tool for Legal Reform: Extending Women’s Right to Divorce under Islamic Law in Pakistan”, *Islamic Law and Society* 24:4 (2017), 384–411; Lucy Carroll, “Quran 2:229 ‘A Charter Granted to the Wife’? Judicial *Khul’* in Pakistan”, *Islamic Law and Society* 3:1 (1996), 91–126.

Even more interestingly, some *qāzīs* report that they have successfully facilitated Islamic divorce by mutual consent (known as *mubārāh*).⁶⁷ This procedure, they argue, is their preferred form of divorce, for it does not require the woman to rescind her *mahr*, and it gives a *qāzī* more flexibility to negotiate an agreement that is “fair for both people.”⁶⁸ In practice, this form of Islamic divorce is often overlooked by the civil courts and by the male-led *sharī‘ah* *‘adālat*s: first, because it is based on agreement and thus does not require the officiation of a legal agent, and second, because there is no explicit reference to it in the Qur’an.⁶⁹ By overseeing divorce by mutual consent, therefore, the female *qāzīs* are doing more than merely taking charge of established procedures of divorce. Rather, as one BMMA leader put it, they are “slowly but surely remaking [the] norms” being adhered to within the adjudication of Muslim family laws, exercising forms of divorce that better protect the principles of negotiation enjoined by the *sharī‘ah*.⁷⁰

Towards Gender-Just Muslim Marriages and Divorces

While the female *qāzīs* readily apply strategies of arbitration and mediation in cases in which channels of communication between petitioners remain open or when marital reconciliation seems achievable, how do the *qāzīs* respond in situations in which such relations have broken down entirely? How do the *qāzīs* attempt to protect women from mistreatments that they may suffer within the framework of Muslim family law?

Various legal practices that the *qāzīs* regard as deviations from Qur’anic instruction persist in India under the personal law system. All the *qāzīs* I spoke to, for instance, reported frequent meetings with women whose husbands had issued unilateral, immediate divorce (the notorious ‘triple *ṭalāq*’, or *ṭalāq-i-bid‘ah*, which was legally proscribed by the Supreme Court only in 2017). Some also report being visited by victims of *ḥalālāh* (*taḥlīl*), a controversial marital practice that requires an ex-wife to enter into an intermediate marriage with a third party that must be consummated and then terminated before she may

67 *Mubārāh* divorces brokered by female *qāzīs* have received coverage in the local press, e.g. *Jan Maharastra* (Mumbai), 22 January 2018.

68 Interview, Khatun Shaikh. Several *qāzīs* have also facilitated this kind of divorce.

69 This detail was recounted to me by one male *qāzī* working in Patna. Interview, Wasi Ahmad Qasmi, Patna, 1 September 2018.

70 Interview, Noorjehan Safia Niaz, 27 January 2018.

remarry her former husband.⁷¹ One *qāzī* recalls a case in Rajasthan in which a husband recited the triple *ṭalāq* while intoxicated, without his wife being present or even aware of the divorce. Subsequently, in an elaborate conspiracy, he drugged her and arranged for another man to marry, rape and divorce her, so that he might re-marry her. Controversial matrimonial practices such as these, long restricted or outlawed in most Muslim societies, have continued to occur in India, finding space in the shadowy and unregulated world of community-level Muslim personal laws.⁷²

The female *qāzīs* see their engagement with Islamic laws as the way to bring practices such as these to an end, and to develop a prototype for a wider, gender-just *sharī‘ah*. In this section, I discuss how these *sharī‘ah* ‘*adālat*s apply a range of formal and informal strategies to seek solutions to an array of matrimonial problems. Since the tribulations experienced by women, and their possible solutions, are so diverse, the *qāzīs* serve as legal brokers who direct their petitioners through a combination of official and non-official channels. As one *qāzī* put it, “there are different windows for different situations”, and the *qāzī*’s key function is to identify the optimal pathway forward.⁷³

Formal channels sometimes offer the best mechanisms for seeking justice, certainly for issues that are subject to clear criminal and civil legislation. For instance, all the *qāzīs* with whom I spoke claimed that one of the issues that they encounter most frequently is domestic violence, a criminal offence that falls under the Protection of Women from Domestic Violence Act of 2005. In these cases, the *qāzīs* usually direct abused women to file a report (known as an FIR: First Information Report) with the police. For some other matters, the *qāzīs* may offer guidance to women on navigating the procedures of the official civil and family courts, for instance, when applying for a divorce or filing a case against a former husband who is failing to provide post-divorce maintenance payments or child custody entitlements.

71 For background, see Barbara Stowasser and Zeinab Abul-Magd, “*Tahlil* Marriage in Shari‘a, Legal Codes, and the Contemporary *Fatwa* Literature”, in Yvonne Haddad and Barbara Stowasser (eds.), *Islamic Law and the Challenges of Modernity* (Oxford: Altamira Press, 2004), 161–82; Ali, *Modern Challenges*, 255–258.

72 The formal abolition, or gradual erosion, of *tahlil* marriage in many Muslim-majority countries as a result of a codified marriage law is discussed in Stowasser and Abul-Magd (eds.), “*Tahlil* Marriage”.

73 Interview, Nishaat Husain; cf. interview, Khatun Shaikh. The *qāzī* training programme advocates a similarly multipolar approach, giving its participants instruction on how to work with “state authorities like the marriage registrar’s office, courts, police station[s] and other *qāzī*’ats [Islamic community legal bodies].” BMMA, “Darul Uloom-E-Niswan”.

Frequently, however, the path towards resolution is more complex, and in these cases, the *qāzīs* must turn away from the state and fall back on their own strategic manoeuvres. Indeed, some female *qāzīs* speak with pride about the cunning devices that they have identified for solving specific problems, in line with the judicial acumen traditionally required by the *qāzī*.⁷⁴ Sometimes, these strategies involve adopting somewhat controversial tactics located on the boundaries of lawfulness to seek solutions to women's troubles.

One example is the procedure used by some *qāzīs* when helping a woman who plans to initiate divorce proceedings through a civil or family court. Typically, a woman who adopts this course of action rescinds her post-divorce entitlements to spousal maintenance, and is often immediately ejected from the marital residence, even before reclaiming her personal possessions. So, as one *qāzī* reports, whenever she is approached by a wife who wants a divorce, she encourages the woman to first return home to retrieve her belongings, before informing her husband of her decision to seek divorce. If the husband suspects that she intends to leave him, the *qāzī* advises her to lie to him, in order to re-establish access to her home, and to pack her bags before filing divorce proceedings. In cases in which a husband or in-laws are hostile, the *sharī'ah* 'adālat sends representatives with the wife to help her gain access to the marital residence. Once her possessions have been safely retrieved, the *sharī'ah* 'adālat can assist the woman in filing the request.⁷⁵

Other tactics that have been used by *qāzīs* are even more audacious. One *qāzī* narrates a case of a woman who was subjected to violence from her husband. First, she went to her local police station, but the officers dismissed her, telling her that she should take the issue to her local mosque leaders. When the woman approached the *sharī'ah* 'adālat, the *qāzī* shrewdly advised her to douse herself in kerosene and return to the police station with a false threat of self-immolation. Once she did this, the police were suddenly willing to file her report.

74 We might compare this emphasis upon the *qāzī's* judicial acumen with the qualities of the judge specified in the *adāb-ul-qāzī* ('etiquette of the judge') sub-genre of Islamic jurisprudence. According to these works, the *qāzī* must possess tremendous strategic discernment in legal matters, and he should be able to skilfully navigate different options for dealing with a dispute. See Ghulam Murtaza Azad, "Conduct and Qualities of a Qādi", *Islamic Studies* 24:1 (1985), 51-61. While *adāb-ul-qāzī* is a classical sub-genre, there are many commentaries of South Asian origin on the discipline, e.g. *Fatāwa-i-Ālamgīriyah*, Book III; Nadvi, *Al-Qazā*; 'Abdus Samad Rahmani, *Adāb al-Qazā* (Amarat-i-Sharī'ah: Patna, 2014 [1962]).

75 Interview, Khatun Shaikh.

Female *qāzīs* have adopted similarly fearless strategies to address other issues, such as one instance in which a *qāzī* acted to prevent the occurrence of *ḥalālāh*. A couple who had divorced but wished to remarry had met with a local male *muftī*, who instructed them to perform *ḥalālāh*. Wishing to avoid this, the couple approached the women’s *sharī’ah* ‘*adālat*’ for advice. The female *qāzī* sought out the *muftī* in question to challenge him, but he denied having made such a recommendation. In response, the *sharī’ah* ‘*adālat*’ organised a sting operation, sending a volunteer to the *muftī*’s office in the guise of an ex-wife seeking remarriage to an ex-husband. Not only did the *muftī* advise the woman that *ḥalālāh* is obligatory, but he even offered to find ‘a man’ who would perform this service for a fee of 2500 rupees. Unknown to the *muftī*, the conversation was recorded, and the recording was handed to several news outlets, which subsequently published the story.⁷⁶

The *sharī’ah* ‘*adālat*’s are also developing longer term strategies for avoiding such abuses in Muslim matrimonial practice. A key example is their emphasising of the *nikāḥ-nāmah*: the marriage contract. Like the BMMA and many other Muslim feminist groups, the female *qāzīs* argue that the *nikāḥ-nāmah* is a religiously prescribed mechanism for stipulating and protecting marital rights.⁷⁷ Yet, they argue, its importance is often neglected. As one *qāzī* put it, local male clerics often do not take the *nikāḥ-nāmah* seriously or offer any instruction as to its content, but rather they just “come along, perform the *nikāḥ* [ceremony], leave, and take no responsibility for what happens afterwards.”⁷⁸ Proper contracts, the *qāzīs* argue, should include detailed stipulations of each partner’s obligations and rights, which may include the husband’s responsibility to treat his wife considerately, pay the *mahr* upfront, provide a viable living allowance, or refrain from taking a second wife. All *qāzīs* with whom I spoke claimed that they had helped couples to identify or to draft *nikāḥ-nāmahs* that affirm, in writing, the rights of both parties.

Moreover, by means of a stipulation in the *nikāḥ-nāmah*, it is possible for a husband to ‘delegate’ the right of divorce to his wife (known as *ṭalāq-i-tafwīz*) in case of his infringement of the conditions in the marriage contract, thus expanding the grounds on which a woman may petition for divorce. Curiously,

76 *India Today* 16.8.2017, <http://indiatoday.intoday.in/story/nikah-halala-islamic-scholars-one-night-stand-divorced-muslim-women-marriage/1/1027212.html> [last accessed: 28 August 2017].

77 For discussions of proposed amendments to the *nikāḥ-nāmah* and their role in contemporary feminist activism, see Mengia Hong Tschalaer, *Muslim Women’s Quest for Justice: Gender, Law and Activism in India* (Delhi: Cambridge University Press, 2017), 104–32.

78 Interview, Nasreen Metai.

the inclusion of *ṭalāq-i-tafwīz* stipulations in marriage contracts was advocated by several Deobandi *muftīs* beginning in the late 1920s, as a means of facilitating a woman's lawful separation from a callous husband.⁷⁹ Thus, while female *qāzīs* blame male religious leaders such as these for the everyday difficulties faced by Muslim women, they themselves have adopted a comparable mechanism for protecting women from perilous marriages, albeit in a much expanded form.

Of course, to enact more equitable *sharī* marriage practices, the *qāzīs* must work with the existing structures of Islamic clerical leadership in specific localities. Since many Muslim communities are sceptical about the legitimacy of a female Muslim judge, these *qāzīs* must sometimes refer their clients to male clerics who are recognised as authorities in their communities, rather than attempting to direct solutions themselves. In Mumbai, female *qāzīs* say that they are able to work with ten to twelve local male *imāms* and *maulvīs* who they know to be sympathetic to their cause and who are more sensitive to women's needs in marital or divorce-related cases.⁸⁰ In Jaipur, the *sharī'ah* 'adālat works with 'one or two' local *muftīs* and *imāms*.⁸¹ The fact that female *qāzīs* call upon assistance from male religious authorities points to their recognition of the fact that, within conservative local communities, a vulnerable woman is likely to need the sanction of a recognised male facilitator, rather than the more controversial option of a female judge, if a legal decision is to be accepted among her kith and kin.

This latter point illustrates one of the major limitations of these *sharī'ah* 'adālat. As most marital and divorce-related issues are handled at community level, female *qāzīs* realistically need acceptance not just from individual petitioners, but from their wider community networks, if their decisions are to be upheld. Some *qāzīs* point out that some women are dissuaded from attending the *sharī'ah* 'adālat because they doubt that their relatives will recognise any resolutions recommended by these courts.

An example of the limitation on a female *qāzī*'s social authority is the question of her certification of Muslim marriage. Traditionally, only men officiate at *nikāḥ* signings and, in practice, the ceremony is often conducted by a male *qāzī*. Nevertheless, all the BMMA's female *qāzīs* have received training in officiating *nikāḥs*, and some claim to have performed one on a handful of occasions. The reason that they are not invited to solemnise marriages more often,

79 See Fareeha Khan, "Tafwīḍ al-Ṭalāq: Transferring the Right to Divorce to the Wife", *The Muslim World* 99 (2009), 502–20; Thanawi, *Al-Ḥilāt al-Nājizah*.

80 Interview, Khatun Shaikh.

81 Interview, Nishaat Husain.

one *qāẓī* explains, is that couples fear that their families will not accept a *nikāḥ* contract certified by a woman, rendering any such marriage meaningless within their local community. The hope, the *qāẓī* suggests, is that there will be a gradual change in public perception. Women who have been helped by a *sharī’ah* ‘*adālat*’ in the past, she tells me, have pledged to her that they will seek a female officiant for their marriage if they remarry, or for the future marriages of their children.⁸² It may, she suggests, take one or more generations for female Islamic judges to be commonly accepted, but when they are, female *qāẓīs* will take on the full spectrum of legal and social roles previously reserved for their male counterparts.

Evaluating Female *Qāẓī*-Justice

In this essay, I have argued that India’s all-female *sharī’ah* ‘*adālat*’ movement, which has achieved considerable visibility and influence, represents a fresh, bold strategy for protecting Muslim women’s rights, and for furthering the local reach of the central stipulations of Islamic feminism in contemporary India. The movement has developed notions of women’s dignity and equality based in the language of Qur’anic principles and *sharī’ah* values and, even more significantly, has co-opted the *sharī’ah* ‘*adālat*’ as a vehicle by which these values might be embodied in normative legal practice. Moreover, the movement is significant for its identification of the informal world of alternative dispute resolution bodies, rather than the official judicial system, as the natural space in which to pursue this goal most immediately. These characteristics of the *sharī’ah* ‘*adālat*’ movement reflect, and advance, wider tendencies in contemporary Muslim gender activism in India, including a movement away from public-facing, state-centred and policy-focused discourse, towards more ground-level, culturally sympathetic and arbitration-oriented efforts at protecting Muslim women.

I have hinted at several explanations for the swift expansion of the *sharī’ah* ‘*adālat*’ movement. These courts seem to have several advantages in delivering justice to Muslim women that official judicial institutions do not. Compared to the civil and family courts, the *sharī’ah* ‘*adālat*’s are accessible, approachable, inexpensive and speedy.⁸³ They represent what the *qāẓīs* term a “mobile

82 Interview, Khatun Shaikh.

83 These same arguments are used to justify the popularity of more traditional, male-led *dār-al-qāẓā* institutions in India (interview, Wasi Ahmad Qasmi). However, these clerical

justice”: *qāzīs* are bound to neither a specific place nor to one set of laws.⁸⁴ Moreover, the female *qāzīs* themselves serve as inspirational personal models. These women are usually from humble backgrounds, and many of them have themselves fled bad marriages or domestic violence; their ascent to the status of religious authority thus provides a model of personal as well as community empowerment.⁸⁵ Just as some modern trajectories of Islamic feminism rely upon the circulation of ‘life stories’ of women who embody their cause, the ‘courage’ (*ḥimmat*), ‘enthusiasm’ (*umang*) and ‘passion’ (*jizbah*) of these *qāzīs* can inspire those who interact with them.⁸⁶

However, the *sharī’ah* ‘*adālats* face numerous functional challenges. They remain under-resourced, lack systematic administrative organisation, and are sometimes misrepresented in public by their many critics.⁸⁷ The cloud that hangs over the Islamic legitimacy of a female judgeship impairs the consensual acceptance of women’s *sharī’ah* ‘*adālats* within Muslim communities inside and outside the courts’ own cities. Some community leaders accuse these courts of attempting to impose social changes upon Muslim families that may imperil community integrity, especially in the contemporary political climate, which is often perceived as being potentially hazardous for the Muslim minority. Indeed, the fact that the bulk of cases handled by the *sharī’ah* ‘*adālats* deal with marital breakdowns has exposed the *qāzīs* to allegations of being ‘home wreckers’ or ‘divorce lovers’ (*ghar tōrnē-walī/ṭalāq dīlnē-walī ‘aūratēn*), an accusation that the *qāzīs*, who claim to emphasise marital dialogue and reconciliation whenever viable, treat with disdain.⁸⁸ Perhaps most importantly, the *sharī’ah* ‘*adālats*’ lack of executive power is a major weakness. All *qāzīs* acknowledge that, on account of the non-binding nature of their decisions, cases can sit on the books unresolved, or can be shuttled back and forth between different legal forums. Since their decisions rely upon sustained consent, some *qāzīs* estimate that perhaps only half of their cases reach any final resolution.

Be that as it may, the non-official status of these *sharī’ah* ‘*adālats* may actually give them greater legal agency than they would have possessed as official

courts are often thought to be less likely to adopt an approach that is sympathetic to women than are these female ‘*adālats*.

84 Niaz, “Women’s Shariah Court”, 11–13.

85 Many *qāzīs* tell detailed stories of their own difficult experiences in patriarchal families. One, for instance, reports that she left her family and children due to domestic abuse; another recalls a childhood memory of her mother being beaten for failing to produce a son.

86 Niaz, “Women’s Shariah Court”, 53, 62, 88; interview, Nishaat Husain.

87 Niaz, “Women’s Shariah Court”, 11–13.

88 Ibid, 54, 96; Interview, Khatun Shaikh.

legal bodies, for several reasons. First, under India's personal law system, in which Muslim marriages and divorces are frequently adjudicated outside of court, female *qāẓīs* can execute marriages and divorce settlements that are recognised by their holders whenever they can command approval at the community level. Their officiation of *nikāḥs* and their negotiation of *mubārāh* and *khula'* divorce proceedings are examples of matrimonial services that they can perform with authority. Second, since India (in contrast to many Muslim-majority countries) does not have any 'official' hierarchy of religious scholars or advisors with the power to make decisions about Islamic family law, these *qāẓīs* have been able to present themselves to litigants as authentic 'Islamic' voices, which would be more difficult for women in a legal system with a recognised Islamic judiciary. While the legal authority of female *qāẓīs* is often contested, especially on gender grounds, they have operated in a free legal marketplace within which their claims are clearly compelling for many clients. Third, the *qāẓīs'* autonomy from the judiciary gives them the ability to choose between a series of both state- and non-state-centred strategies in support of individual women. They show considerable adaptability and mobility in steering their petitioners towards a range of alternative official and community-based legal bodies depending on the circumstances. And fourth, their non-official status means that they can claim autonomy from the formal legal system, which is frequently accused of being patriarchal in its mindset and structures.

As even some of the female *qāẓīs* acknowledge, the considerable community power that they have acquired within India's informal legal spaces places them in a paradoxical position. The leaders of the *sharī'ah* court movement insinuate that the injustices faced by Muslim women are caused by the lack of formal regulation or codification of Muslim family law in India, which allows community organisations to impose patriarchal interpretations and to adjudicate without constraint.⁸⁹ However, to address injustices experienced by Muslim women within their community networks, the *qāẓīs* must operate within the same, informal legal domain that they see as being ultimately responsible for these injustices. They lament that family law issues are often adjudicated outside of the official legal system, but they themselves adjudicate through

89 The *sharī'ah* courts' parent organisation, the BMMA, argues that the Indian state should take a more proactive role in reforming Muslim family laws by proscribing abusive marital and divorce practices and/or codifying parts of Muslim personal law. Especially since 2014, it has been campaigning for a code of Muslim family law in India, and has constructed and produced its own template. See <<https://bmmaindia.com/2014/06/18/bmmas-draft-muslim-family-law/>> [last accessed: 9 March 2018].

means similar to those that they disparage, thereby perhaps confirming this informal and non-state domain as the natural territory of dispute resolution.

Yet, this paradox cuts two ways. Viewed more generously, these female *qāzīs* have successfully appropriated the pillars of Islamic life that they blame for empowering a patriarchal clerical leadership, namely the figure of the *qāzī* and the institution of the *sharī'ah* court, and have adapted these prototypes to build a separate, all-female vehicle for advancing Muslim women's rights. Thus, the *sharī'ah 'adālat* movement in contemporary India represents a particularly creative example of Islamic feminism's search to find ways of translating its wider, strategic agenda into new practical, everyday realities. It also reveals how the campaign to uphold justice for Muslim women in India is developing fresh manifestations, both by developing new, adjudication-based methods of implementing a more equitable *sharī'ah*, and by pushing ever deeper beyond the formal judiciary into India's legal shadows.

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