



FORUM ARTICLE

Muslim feminism as Islamic modernism: Women's activism in India between the Quran and the Constitution

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Abstract

The last 15–20 years have seen the emergence of a new trajectory of ‘Muslim feminism’ in India which has grounded Muslim women’s rights discourse both in the direct interpretation of Islamic scriptures and also in principles derived from the Indian Constitution. Examining two prominent Muslim women’s organizations—the All India Muslim Women’s Personal Law Board and the Bharatiya Muslim Mahila Andolan—this article examines how this form of Muslim feminism has become a central repository of Islamic modernist thought in India in light of its perceived failure in some other sections of Muslim public life. Based on writings and educational materials produced by these organizations, this article discusses their methods of harnessing the teachings of the Quran, their application of ‘Islamic feminist’ methodology to interpret Islamic family laws, their identification of equivalence between Islamic and constitutional values, and their attempts to engage the state in their efforts to promote the modernization of Muslim Personal Law.

Keywords: Muslim women; Islamic modernism; Islamic feminism; Muslim activism (India)

Introduction: ‘Muslim feminism’ in India

Muslim women are relooking at the Quran from a feminist perspective. Classical fiqh or classical legal literature are completely emanating from certain patriarchal versions; hence the need to go back to the source, [the] Quran. A need was felt to relook, reinterpret, retranslate the Quran from a feminist perspective and to access it as a tool for women’s emancipation. As a result of this approach, women Islamic scholars are coming up with amazing explanations and understandings of the same holy book to carry forward the work in law reform... this perspective is coming from the lived realities of Muslim women across the world.

All classical fiqh understanding of the Quran comes from a very male perspective [and] distorts the Quran itself; Muslim women are challenging that distortion.¹

In the aftermath of the fateful Shah Bano judicial saga (1985–1986), in which the government passed legislation that disbarred Muslim women from claiming long-term post-divorce maintenance from former husbands on the basis of Muslim Personal Law, India witnessed the development of a specifically Muslim strand of women's rights activism. At this juncture, a sense grew that the wider national women's movement in India, which had its origins chiefly in secular, liberal, and leftist thought and was led chiefly by middle-class and upper caste Hindu women, was ill-equipped to engage the specific values and concerns of Muslim women: most especially, the impacts of wider community marginalization on Muslim women and the discriminatory impacts of some personal laws.² This led to calls for an identifiably Muslim 'minority feminism',³ rooted in the beliefs that the Muslim woman's predicament needed separate iteration as well as a distinct strategy for seeking equality and justice.

As such, an array of women's organizations emerged in the late 1980s and 1990s which were identifiably Muslim in their membership, language, and strategic priorities. Many of these emerged in Mumbai, including Awaaz-i-Niswaan (founded in 1987), a non-communitarian but largely Muslim NGO that organized education, family mediation, and campaigns against violence against women, as well as the Women's Research and Action Group (WRAG, in 1993) and the Muslim Women's Rights Network (MWRN, in 1999), both of which engaged in activism around personal laws, women's matrimonial rights, and social issues. Others, including the Muslim Women's Forum (2000) of Delhi, focused on education and social amelioration initiatives, as well as skills-training and attempts to promote communal harmony.⁴ These groups shared a range of common features, including commitments to offering education, advocacy, skills-training, and other development initiatives for women in poor, predominantly Muslim, neighbourhoods, and an empathic yet distinct relationship with the women's movement more widely. But, while these organizations presented themselves as Muslim, they

¹Noorjehan Safia Niaz, 'Islamic feminism and Indian Muslim women's movement', in Noorjehan Safia Niaz and Zakia Soman, *Indian Muslim women's movement: For gender justice and equal citizenship* (Chennai: Notion Press, 2020), p. 407. This volume, used throughout this article, is a compilation of journalistic pieces formerly published by these co-founders of the Bharatiya Muslim Mahila Andolan (henceforth BMMA).

²Radha Kumar, *The history of doing: An account of women's rights and feminism in India* (New Delhi: Zubaan, 1993), pp. 162–171. Some of the activists discussed in this article describe Muslim women's predicament as one of 'triple marginalization': they are marginalized as women, as members of a beleaguered religious minority, and by patriarchal readings of religion within the community. Interview, Zakia Soman (BMMA), 25 May 2018.

³This term is taken from Nida Kirmani, 'Beyond the impasse: "Muslim feminism(s)" and the Indian Muslim women's movement', *Contributions to Indian Sociology*, vol. 45, no. 1, 2011, pp. 1–26.

⁴On these organizations, see especially Sylvia Vatak, 'Islamic feminism in India: Indian Muslim women activists and the reform of Muslim Personal Law', *Modern Asian Studies*, vol. 42, no. 2/3, 2008, pp. 489–518; Nida Kirmani, 'Rethinking the promotion of women's rights through Islam in India', *IDS Bulletin*, vol. 42, no. 1 2011, pp. 56–66; Rafia Zaman, '(Re)framing the issues: Muslim women's activism in contemporary India', *ibid.*, pp. 26–44; Nadja-Christina Schneider, 'Islamic feminism and Muslim women's rights activism in India: From transnational discourse to local movement, or vice-versa?', *Journal of International Women's Studies*, vol. 11, no. 1, 2009, pp. 56–71.

also sustained a chiefly liberal-secular rights discourse for advocating women's rights. They were 'tolerant rather than celebratory of religion', accepting the centrality of community identity and the realities of personal laws for Muslim women and seeking ways to protect women within the existing legal-constitutional framework, but showing minimal direct interest in exploring religious texts or teachings.⁵

This approach differed from a subsequent generation of Muslim women's groups which emerged from around the mid-2000s. Like their antecedents, these new organizations exhibited a multi-pronged commitment to social activism and an engagement with civil, legal, and constitutional rights provisions. However, they differed in their willingness to justify their campaigns for women's equality and justice by invoking teachings from the Islamic scriptures. Groups like the Muslim Women's Jama'at (founded in 2004 by Da'ud Sharifa Khanum in Tamil Nadu), the All India Muslim Women's Personal Law Board (founded in 2005), and the Bharatiya Muslim Mahila Andolan, a national 'movement' made up of a series of Muslim-led NGOs at state level (founded in 2007), have all pushed beyond the more circumspect approach of their forerunners. Collectively, they have steered a more *proactive* rather than *reactive* stance to religion, placing direct engagement with Islamic teachings at the heart of their activism.⁶

The most recent scholarship on Muslim women's activism has focused especially on the 'intersectional' and 'multidimensional' hermeneutics of contemporary Muslim women's rights activism: these activists have synthesized their own interpretations of Islamic texts, transnational human and women's rights discourse, the rhetoric of national and international NGOs, and Indian civil laws and constitutional protections.⁷ While building on these discussions, this article takes a slightly different vantage point on this nascent strand of 'Muslim feminism',⁸ exploring how these activists have engaged religious texts and reasoning. Through their re-readings of Islamic texts and laws, this recent strand of Muslim feminist hermeneutics has sought to develop a humane, progressive interpretation of religion that can promote gender justice and social progress and which stands as a counterweight to more conservative forces in Muslim society.

Linked to this, I argue that these women's organizations position themselves as a prominent and active manifestation of Islamic modernist thought in South Asia.⁹ This

⁵Kirmani, 'Beyond the impasse', pp. 15–16.

⁶*Ibid.*

⁷See especially Mengia Hong Tschalaer, *Muslim women's quest for justice: Gender, law and activism in India* (New York: Cambridge University Press, 2017).

⁸This category of 'Muslim feminism' has been adopted most enthusiastically by the BMMA but has also been used by other activists from these groups. The category implies distinction both from a more Western-inspired secular/liberal 'feminism' and from a more exclusively religiously articulated 'Islamic feminism'.

⁹The notion of Islamic modernism is slippery, but I take it broadly to refer to 'a complex of religious, intellectual and political initiatives aimed at adapting Islam—its beliefs, practices, laws and institutions—to the challenges of life in the modern world': Muhammad Qasim Zaman, *Islam in Pakistan: A history* (Princeton: Princeton University Press, 2018), p. 3. In practice, Islamic modernist reasoning often occurs not directly or separately, but through discussion of contemporary issues such as democracy, constitutionalism, and women's rights: Charles Kurzman (ed.), *Modernist Islam 1840–1940: A sourcebook* (New York: Oxford University Press, 2002). This is very much the approach taken in this article.

new Muslim feminist hermeneutic has arisen in response to these scholar-activists' perceptions that Islamic modernist thought (something with a distinguished legacy in South Asian Muslim intellectual history¹⁰) has deteriorated or even 'failed' in post-colonial India. Lamenting the inabilities of certain community and religious leaderships to engage reformist principles or respond constructively to societal need, these female activists see their social activism not just as a means of protecting Muslim women but as a way to preserve Islamic modernism in an adverse socio-religious environment. This means that the work of these 'Muslim feminists' does not solely inform the struggle for women's equality. Rather, their recovery of liberal and modernist currents of religious reasoning ensures direct engagement with a wider spectrum of other issues: themes of secularism, constitutionalism, and the aligned concerns of Muslim citizenship and the community's fraught position in contemporary India.

While this article references various Muslim women's groups active in the last two decades, two in particular comprise the bulk of the discussion. The first of these—the All India Muslim Women's Personal Law Board (henceforth AIMWPLB)—was established by Shaista Amber, a social activist of Lucknow. According to her own autobiographical narrative, Amber had a largely 'secular' upbringing and was previously a member of the Communist Party of India. However, her work among disadvantaged Muslim women, many of whom had experienced suffering at the hands of the Muslim Personal Law system, convinced her of the need to take on questions of shari'a-based laws more directly. She initially attempted to join an influential clerical organization known as the All India Muslim Personal Law Board (discussed further below) but had her suggestions rejected, incentivizing her to establish a breakaway equivalent more attuned to the pursuit of women's equality.¹¹ While initially castigated as irrelevant (a prominent elder of Lucknow's Farangi Mahal seminary, Khalid Rasheed, dismissed it as a 'paper tiger' upon its foundation), the AIMWPLB under Amber's direction has established a national profile. It has led prominent campaigns for reform of marriage and divorce law, run local education programmes, community mediation and legal aid services, and pushed back against its home city's 'ulama-led organizations.¹²

The main organization discussed in this article—the Bharatiya Muslim Mahila Andolan (henceforth BMMA)—has become perhaps India's most prominent Muslim women's organization. It was founded in 2007 by Noorjehan Safia Niaz and Zakia Soman as a national 'movement' comprising a series of semi-autonomous local 'units' (branches) in different states. Under leaders with professional backgrounds in NGOs and the wider third sector, the BMMA has characterized itself as a national, 'secular' movement among Muslims serving the cause of gender equality. It has engaged in a rich agenda of research on personal law issues among Muslims, and a series of educational, social, and development programmes in various states. It became especially

¹⁰During the colonial period, Indian Muslim intellectuals such as Syed Ahmed Khan, Chiragh 'Ali, and Syed Ameer 'Ali made South Asia a major global centre of Islamic modernist thought: Aziz Ahmad, *Islamic modernism in India and Pakistan, 1857–1964* (London: Oxford University Press, 1967); Khurram Hussain, *Islam as critique: Sayyid Ahmad Khan and the challenge of modernity* (London: Bloomsbury, 2019).

¹¹This narrative is taken chiefly from an unpublished interview transcript: Shaista Amber, 'Journey of a pedestrian' (circa 2008): private papers of Shaista Amber, Lucknow (henceforth Amber collection).

¹²Ibid. The most substantive academic account of the AIMWPLB is in Tschalaer, *Muslim women's quest for justice*, passim.

famous for establishing a number of *shar'i 'adalats* (non-state 'Islamic courts') led exclusively by female 'qazis' (religious judges) who provide matrimonial counselling and legal aid services in various cities.¹³ It has also engaged in some high-profile national campaigns for the reform of Muslim personal laws, most especially an ongoing campaign demanding the wholesale codification of Muslim Personal Law in India, and, simultaneously but more specifically, calls for legislative bans of practices such as instant triple-*talaq* (oral divorce) and polygamous marriage. In addition to this focus on personal laws, the BMMA also prominently frames itself as a secular organization that encourages Muslims' engagement as citizens of India, by promoting constitutional rights and participation in democracy.

These two organizations differ in significant ways.¹⁴ Nevertheless, they each run a diverse portfolio of comparable activities, including education, legal aid, and family or spousal counselling initiatives. Both, moreover, have engaged state and non-state institutions alike in the attempt to protect women's interests, working with the courts and police as well as non-state bodies like *shar'i 'adalats*; and both have been involved in civil society campaigns for personal law reforms. And, distinguishing them from early Muslim women's groups, both have actively blended secular and Islamic discourses of rights as concomitant paths to protecting women.¹⁵ Discussion and comparison of these two organizations, therefore, offers a basis for reflecting on the modern directions of this contemporary form of Muslim feminism and its engagement with a wider set of Islamic modernist principles.¹⁶

The article is based on sources provided by these organizations and their leading activists, including interviews, personal archives, their many journalistic contributions, and (most crucially, given the emphasis that both these organizations have placed on education campaigns) teaching notes that leaders from each organization have used to deliver classes and workshops to women at the grassroots level. The first section of this article offers an account of these organizations' interpretation of the failure of Islamic modernist reform in India since independence, based in what they see as a fundamental limitation of India's polity of secularism, and considers why these

¹³These BMMA-run *shar'i 'adalats* are discussed in Sagnik Dutta, 'Competing allies: Legal pluralism and gendered agency in Mumbai's sharia courts', *Law and Social Enquiry*, vol. 47, no. 2, 2022, pp. 514–534; Justin Jones, "'Where only women may judge': Developing gender-just Islamic laws in India's all-female "shari'ah courts"', *Islamic Law and Society*, vol. 26, no. 4, 2019, pp. 437–466.

¹⁴The AIMWPLB has been led overwhelmingly by Amber personally and to a greater extent it has focused more specifically on personal law reforms and political opposition to 'ulama-led platforms. The BMMA, by contrast, is a larger organization that carries a broader national network and agenda, and has given attention to a wider set of citizenship and development issues.

¹⁵It is worth restating that the turn to religious reasoning marked the major difference between the earlier MWRN and the BMMA, both of which initially were steered by the same core team of leaders in Mumbai. Likewise, the BMMA's creation of quasi-'religious' institutions like non-state *shar'i 'adalats* drove away some members who were suspicious of what they perceived as a shift away from a predominantly liberal-secular women's rights strategy.

¹⁶The author has also discussed these two organizations in a previous article: Justin Jones, "'Acting upon our religion": Muslim women's movements and the remodelling of Islamic practice in India', *Modern Asian Studies*, vol. 55, no. 1, 2021, pp. 40–74. However, while this earlier article mostly explores these organizations' reformulations of religious observance, such as women's attendance at mosques and shrines, the current article foregrounds the intersectional rights hermeneutics that has been developed by these same groups.

activists have been prompted to engage Islamic teachings themselves. The next two sections both explore the religious thought of these Muslim feminists, especially their direct interpretation of the Quran, their call for a new form of *fiqh* (jurisprudence) and transactional engagement with global Islamic feminism. The two sections that follow discuss the intersectional strategy by which these organizations have cited equivalence between Islamic and constitutional rights and values and have harnessed the Indian Constitution as the basis for developing progressive religious teachings. The concluding section draws together these two strands of Islamic modernist and constitutional thinking, and frames this Muslim feminism within a wider trajectory of Muslim civil society activism.

'New 'alimahs' in secular India's clerical 'fiefdom'

A number of recent Indian Muslim public intellectuals have argued that there has been a deterioration of modernist or liberal thought in Islam in India since independence. One author, for example, writes that post-independence India was originally home to a 'thriving community of liberal Muslims', including journalists, writers, academics, artists, and grassroots political activists, before the community 'lost [its] way in the late-1960s'. Since then, Muslim communities have increasingly come to inhabit an 'intellectual vacuum' or 'mental ghetto', marked by a 'lack of a forward-looking leadership' and insufficient embrace of reformist thinking.¹⁷ Other writers have issued similar critiques of what they see as a decline of Muslim modernist discourse.¹⁸ For women's organizations, the particular pressure point of this stagnancy of modernism has been the absence of progressive reforms to Muslim Personal Law. In independent India's first two decades, a number of liberal Muslim public figures had argued in favour of state-led reform of Muslim personal laws to parallel the modernization of Hindu personal laws that had taken place via the Hindu Code bills of the mid-1950s. Political representatives such as Abul Kalam Azad and Naziruddin Ahmad, judges such as A. A. A. Fyzee, and social activists such as Hamid Dalwai were among numerous Muslim voices who supported the legal abolition of controversial practices such as instant triple-*talaq* and the legislative modernization of Muslim personal laws.¹⁹ However, as with the wider principles of Islamic modernism, these voices gradually became more muted from the end of the 1960s. By this time, clerical and 'ulama-led organizations, especially the All India Muslim Personal Law Board (AIMPLB, founded in 1973), argued strongly that shari'a-based family laws came only from God

¹⁷Hasan Suroor, *Who killed liberal Islam* (Delhi: Rupa, 2019), pp. 38–39, 84–85. The author takes 'liberal' to mean the acceptance of a range of values, including democracy, constitutionalism, and gender equality.

¹⁸For example, S. Irfan Habib, 'The dilemma of the Muslim liberal', *Frontline* (Chennai), 23 February 2023; Ghazala Wahab, *Born a Muslim: Some truths about Islam in India* (Delhi: Aleph Book Company, 2021). Such arguments are also implicit in the many writings of other Muslim public intellectuals such as Tahir Mahmood, Athar Farouqi, Salman Khurshid, and Hilal Ahmed, among others.

¹⁹For example, Narendra Subramanian, *Nation and family: Personal law, cultural pluralism and gendered citizenship in India* (Princeton: Princeton University Press, 2014), pp. 219–221; Saumya Saxena, 'Commissions, committees and custodians of Muslim Personal Law in post-independence India', *Comparative Studies of South Asia, Africa and the Middle East*, vol. 38, no. 3, 2018, pp. 423–438.

and could not be amended by parliamentary lawmakers.²⁰ From the 1970s onwards, and as demonstrated by the Shah Bano affair especially, this predominantly clerical Muslim leadership was able to stall state attempts to directly amend personal laws.

The reason to recount this here is that the recent generation of Muslim women's organizations broadly adhere to this narrative that the project of Islamic modernism in India has failed, with ruinous consequences for women in particular. In one candid interview, the BMMA's founder Noorjehan Safia Niaz claimed that 'it would have been ideal if [a] Muslim code bill had happened when the Hindu Code Bill was passed', in the 1950s. However, after independence:

The [political] leadership... decided not to touch the shariah... Ideally after a decade or two it should have been codified, but given the politics that happened and the state support that went to the religious conservative groups, reforms took a back seat... [Thereafter,] religious groups were used for political purposes and they in turn used the political parties for their own survival. This nexus between the state and religious groups proved very harmful for the entire community and especially for Muslim women.²¹

The historic reason for the disproportionate influence of conservative religious leaders in Muslim life, these women's groups have intoned, lies in the post-colonial state's fateful misreading of the Constitution's protection of religious freedoms. According to Niaz, a fallacious interpretation of Article 26 (giving each community the right to 'manage its own affairs in matters of religion') has meant that the state has been too willing to tacitly accept an unappointed clerical elite as the spokesmen of the Muslim community. This deference to the 'ulama as purported experts has made the Indian state reluctant to engage in significant reforms of Muslim Personal Law that might provide protections to women; simultaneously, this long-term state strategy of non-interference in religion has handed considerable social power to Islamic clerics, community *jama'ats* (councils), and religious bodies, all of whom play a significant social role in the handling of personal laws at grassroots level.²² As Niaz argues:

Because the Muslim law is not codified, it is a free for all. *Kuch bhi chalega, kaun puchnewala hai?* [Anything goes, who will question it?] This unhindered sense of freedom in managing legal relations gives immense power to Muslim men. And the support of the clergy only makes it worse. The clergy in India think that the religion of Islam is their personal fiefdom and nobody, not even God, can

²⁰This argument was made at the time of the AIMPLB's foundation by its secretary, Minnatullah Rahmani, around the immediate subject of the proposed application of civil adoption laws to Muslims. Minnatullah Rahmani, *Mutabanna Bill 1972: Ek ja'izah* (Mumbai: All India Muslim Personal Law Board, 1974). While the AIMPLB has no formal status as a representative body, the organization has famously exacted strong influence upon the government during critical discussions around Muslim minority affairs, perhaps most [in]famously during the Shah Bano controversy.

²¹Noorjehan Safia Niaz (hereafter Niaz), 'Religious freedom and the Indian Constitution', in Niaz and Soman, *Indian Muslim women's movement*, p. 210.

²²Several recent studies have highlighted the role of 'ulama-run bodies in adjudicating Muslim Personal Law, for example, Katherine Lemons, *Divorcing traditions: Islamic marriage law and the making of Indian secularism* (Ithaca: Cornell University Press, 2019).

interfere in their affairs. They are ruining the lives of women and tarnishing the fair name of Islam.²³

Niaz here is alluding here to a fundamental paradox in Indian secularism as it applies to the Muslim minority. Analysts have considered India's distinctive iteration of secularism to operate according to a highly 'contextual model' of so-called 'principled distance' with regard to religion. As reflected in apposite constitutional stipulations, the state is duty-bound to protect both individual freedom of belief and community self-determination, and also is licensed to 'enact a flexible approach on the question of intervention or abstention' in religious matters.²⁴ Niaz is here indicating that, by de facto opting to abstain from major involvement in Muslim community affairs, the state has retreated from its own secularism model and its obligations to protect individuals as well as communities. Moreover, she insinuates, the Indian state has implemented its own 'secularism' very differently with regard to majority and minority communities. While the Indian legislature had shown itself willing to engage in the reform of the personal laws of Hindus under the rubric of secularism, it has historically interpreted its commitments towards the Muslim minority differently, maintaining distance from wholesale intervention and often refraining from significant personal law reform.²⁵ For Niaz, Indian 'secularism' (incorrectly implemented) has thereby facilitated the emergence of a clerical 'fiefdom', in which the 'ulama wield a monopoly over both interpretation of and adjudication in personal laws. Indian secularism, in practice, has reinforced a conservative, masculine structure of community leadership, which has proven ruinous for Muslim women and denied them their constitutional protections.

This consequence of Indian secularism has coloured the pattern of Muslim women's activism in India compared to elsewhere. In much of the Muslim majority world, where post-colonial regimes since the 1950s have enshrined official personal status codes and brought Islamic family laws under closer legislative regulation, women's rights activists have largely projected their efforts at amending state laws and policies which are seen as unacceptably patriarchal.²⁶ By contrast, India's lack of systematically

²³Niaz, "I divorce thee for your thin waistline!" Reasons and methods of divorce used by Muslim men', in Niaz and Soman, *Indian Muslim women's movement*, pp. 67–68. A similar observation was made by another original founder of the BMMA: speaking in 2014, she noted the 'influence of the priestly class and *jama'atis*' (referring to 'ulama-led groups and the *Jama'at-i-Islami*) within the community at the state and national level, who had come to exert 'door-to-door power' over social behaviours in urban neighbourhoods. Interview, Naish Hasan (Lucknow), 22 March 2014.

²⁴Rajeev Bhargava, 'The distinctiveness of Indian secularism', in *The future of secularism*, (ed.) T. N. Srinivasan (Delhi: Oxford University Press, 2007), pp. 31–35. Comparably, Lemons describes the 'tension' on the part of the state 'between disciplining religion and leaving it alone': Lemons, *Divorcing traditions*, p. 37.

²⁵A comparable argument is made by Partha Chatterjee, 'Religious minorities and the secular state: Reflections on an Indian impasse', *Public Culture*, vol. 8, 1995, pp. 11–39; and P. Chatterjee, *The politics of the governed: Reflections on popular politics in most of the world* (Delhi: Permanent Black, 2004), pp. 115–128.

²⁶For example, women's movements in Muslim-majority states have sought to amend excessively patriarchal state laws such as personal status codes, divorce laws, or, in Pakistan's case, the Hudood Ordinances. For examples, see Ayesha Khan, *The women's movement in Pakistan: Activism, Islam and democracy* (London: I. B. Tauris, 2018); Amy Evrard, *The Moroccan women's rights movement* (Syracuse: Syracuse University Press, 2014); and Omar Caha, *Women and civil society in Turkey: Women's movements in a Muslim society* (New York: Routledge, 2013).

codified Muslim personal laws, combined with the autonomous operational space apparently granted to religious organizations to adjudicate them, have meant that Muslim women's activists in India have had limited recourse to petition the state. Instead, they have often identified religious community leaders as the most acute cause of Muslim women's sufferings under the personal law system, and have directed their ire towards them.

For this reason, many of the activists discussed in this article established their reputation on the basis of confrontations with clerical elites. Amber built the early profile of the AIMWPLB upon a series of public spats with *maulvis* in Lucknow, a long-standing seat of Sunni and Shi'i learning. In 2005, after the notorious 'Imrana case' involving the rape of a woman by her father-in-law, Amber made a strong public rebuke of the *fatwa* of Deoband that she should marry him, noting that Islamic law instead demanded punishment for such crimes and thus justified criminal proceedings.²⁷ In 2006, Amber issued public criticism of a Barelwi *'alim* in Moradabad district who had declared some 200 people to be non-Muslims because they had participated in funeral prayers led by a Deobandi imam.²⁸ In 2010, she organized a public protest outside the Sultan al-Madaris, a Shi'i madrasa in Lucknow, in support of three women who were handed *talaq-namahs* (divorce certificates) by their respective husbands that had been authorized by a *maulvi* in the college.²⁹ In another striking public challenge to the authority of the 'ulama in the same city in the same year, Naish Hasan (at this point, a BMMA-affiliated activist) publicly immolated two well-known books by Deobandi scholars which set models of female subservience towards husbands: Ashraf 'Ali Thanawi's *Bihishti Zewar* (first published in 1905) and Irshad Qasmi's *Jannati 'Aurat* (2000).³⁰

This sense that 'ulama-bodies have wielded undue power over the rights of women has also led these social activists to press claims of their own religious expertise. In order to counter these bodies, they have had to operate as 'new *'alimahs* (female scholars)', undertaking their own direct interpretation of Islamic teachings.³¹ Interestingly, in order to challenge the 'ulama's perceived guardianship of religious expertise, these activists have sometimes seemingly adopted organizational activities and appearances that echo those of the 'ulama. The AIMWPLB was, as noted above, created as an explicit institutional counterweight to the patriarchal AIMPLB. Equally, Amber's convening of Quran education classes, the administration of her community work within the side rooms of a mosque, and her self-presentation in recognizably 'Muslim' dress further show how far she has appropriated the recognized iconography of religious

²⁷'AIMWPLB offers help to Imrana', *Times of India* (n.d.), Amber collection.

²⁸'200 weddings redone after fatwa', *Times of India*, 5 September 2006, *ibid*. This incident is discussed in SherAli Tareen, *Defending Muhammad in modernity* (Notre Dame: Notre Dame Press, 2020), pp. 1–2.

²⁹Amber criticized the *maulvi* for failing to oversee reconciliation efforts in line with Islamic teachings on divorce, and for dissolving marriages outside the formal legal system. 'Sale: Talaq for Rs599 only', *Times of India* (n.d.), Amber collection. And in the same year, she criticized Deobandi 'ulama who disapproved of women removing their veils for ID photos, arguing that women need these for passports, ration cards, and education. 'Muslim women willing to drop the veil to get an identity', *Times of India* (2010, n.d.), Amber collection.

³⁰Interview, Naish Hasan; *Amar Ujala* (Lucknow), 15 March 2010. Both of these works emphasized the hadith as providing the model for women's comportment: see Muhammad Irshad Qasmi, *Jannati 'aurat* (Lahore: Islam Book Depot, 2009), pp. 9–10.

³¹Interview, Shaista Amber (Lucknow), 22 March 2014.

leadership to promote her own authority.³² Some BMMA leaders have also taken on leadership positions visibly resonant of traditional male clerics, such as operating as *qazis* within *shar'i* *adalsats*. Other women's organizations, too, have consciously mimicked the organizational structures associated with the 'ulama as a means of providing their own alternative leadership in matters of religion.³³ At the same time, however, these *'alimahs* have, of necessity, had to balance their own claims to expertise with the parallel need to cooperate with established male clerical leaders who hold more existing legitimacy within local communities.³⁴

The above discussion has sought to link up some of the complex interweavings between this brand of Muslim women's activism and the legal-constitutional framework of Indian 'secularism' in which it took shape. As these activists perceive it, the state's ostensible reluctance to intervene in Muslim personal laws has handed undue socio-legal power to unappointed, male religious leaders. Muslim women's activists, therefore, have not had the same direct recourse to state lawmakers to effect reforms as have some of their compeers in the Muslim majority world. Rather, they have had to engage this alternative sphere of community leadership, and have done this by exercising their own alternative readings of Islamic texts and laws. Given this need to interpret and impart religious knowledge, these women's groups see themselves as the heirs to a project of Islamic modernism in India which, despite its historical distinctions, has greatly deteriorated in recent decades. While simultaneously applying liberal and secular rights discourses, these scholar-activists have thereby developed an applied hermeneutic for re-reading Islamic texts, which deserves close consideration.

Modernist re-readings of the Quran

Having established this contextual background, we can now turn to the precise methods by which these women's groups have directly engaged Islamic texts in order to reinterpret Islamic social and family relations. The direct consultation of textual sources by Indian Muslim feminist scholar-activists in India is not new, and accelerated markedly in the aftermath of the 1986 Muslim Women's (Protection of Rights on Divorce) Act when some influential female voices sought interpretive access to religious laws on their own terms.³⁵ Following this lead, contemporary Muslim women's

³²Tschalaer discusses Amber's performative piety in these terms: Tschalaer, *Muslim women's quest*, pp. 82–87.

³³The Muslim Women's Jama'at of Tamil Nadu is another key example; it was founded in 2004 by Da'ud Sharifa Khanum as an explicit replica of the mosque *jama'ats* (governing councils) that wield considerable community power. Jones, "Acting upon our religion", pp. 58–59.

³⁴Amber, for instance, has applauded various local male 'ulama who supported her early efforts and helped her organization gain authenticity: she cites the inspirational role of Indian clerics, including Abul Hasan 'Ali Nadwi, Shah Abrar ul-Haq, and Abdul Karim Parekh, on her own work. Amber, 'Journey of a pedestrian'; Shaista Amber, 'Mufakkir-i-Islam', *'Aalami Sahara* (Lucknow), 30 April 2007, Amber collection. Equally, the BMMA's local leaders have had to engage in 'everyday cooperation' and 'negotiation' with male *qazis* and imams who have the local influence necessary to enact changes in local practice. Dutta, 'Competing allies', pp. 521–527.

³⁵A key early example was Zeenat Shaukat Ali, a self-declared 'Muslim feminist'. Within two years of this government Act, she published a wide-ranging study of Muslim marriage and divorce which called for a 'return to... the Quranic injunctions and the Prophetic traditions' as a means of 'adapting [legal]

groups have pushed yet further, by foregrounding the Quran especially as the prime or even sole basis for deriving true understandings of Islamic social teaching.

This approach of re-reading the Quran directly to reappraise the role of women in Islam, in ways that differ wholly from classical Quranic exegesis, has been the dominant strand of intellectual activity in global Islamic feminist thought, and has given rise to a large body of academic literature on 're-reading' the Quran that has emerged since the 1980s–1990s.³⁶ The Muslim women scholar-activists under discussion here have conducted their own direct exegesis in ways that closely resonate with this global tradition, but have tailored it to their own particular priorities by investigating in particular what they understand to be the Quran's egalitarian teachings on matrimonial relations and family laws.

Shaista Amber's teachings, under the aegis of the AIMWPLB, offer one illustration of the Quran's centrality both to her own religiosity and the wider social agenda that she promotes. Since the organization's foundation, Amber has run Quran discussion classes, as well as community counselling initiatives which adhere to perceived 'Quranic' principles of mediation. She leans most heavily upon her own interpretation of the Quran and Sunnah, although she has also employed the counsel of local (male) 'ulama to authenticate her correct reading of the texts.³⁷ Amber's efforts to elucidate revised teachings on marriage and divorce based chiefly on the Quran can be gleaned from a series of notes which she has used to inform her teaching and counselling programmes. These notes discuss Quranic teachings on marriage and include references to key Quranic *ayahs* (verses) which establish *nikah* (marital union) as a firm pledge and harmonious and permanent contract between two partners (4:19; 4:21; 30:21; 7:189), with each spouse being like a garment that adorns the other (2:187).³⁸ Her notes then argue that the Quran disapproves of 'careless' customs that infringe this union, such as instant triple-*talaq* (which is described as 'un-Islamic and un-Quranic'), non-payment

doctrines to changing standards'. Zeenat Shaukat Ali, *Marriage and divorce in Islam: An appraisal* (Bombay: Jaico Publishing House, 1987), p. xii. Ali's work offered a full commentary on Islamic teachings from the Quran and Sunnah on these subjects, and attributed patriarchal practices (such as polygamy or child marriage) to either pre-Islamic 'custom', the later Islamic legal schools (*mazahib*), or the vagaries of Anglo-Muhammadan Law. She called for Muslim 'intellectuals, scholars and *mujtahids* [leading religious authorities]' to engage the Quran, Sunnah, and *ijtihad* (direct interpretation) to bring about a 'metamorphosis' in interpreting Islamic matrimonial laws (*ibid.*, p. 259). The later women's organizations discussed in this article have acknowledged the influence of Ali's work on their trajectory and have fed off a similar ethic of direct interpretation of scripture as a basis for the recovery of equality and justice within Islamic family law.

³⁶Formative Islamic feminist works of Quranic exegesis that have directly influenced some of these Indian Muslim scholar-activists include Amina Wadud, *Quran and woman: Rereading the sacred text from a woman's perspective* (Oxford: Oxford University Press, 1999); Asma Barlas, *Believing women' in Islam: Unreading patriarchal interpretations of the Quran* (Austin: University of Texas Press, 2002). Significantly, groups like the BMMA have not engaged with some important later academic scholarship that has insinuated the limitations of Quranic exegesis as a feminist strategy. Aysha Hidayatullah's intervention, for example, argues that 'feminist conceptions of justice and equality may not be fully reconcilable with the text of the Quran... we have reached and exceeded the limits of clear-cut Quranic support for our ideals': Aysha Hidayatullah, *Feminist edges of the Quran* (New York: Oxford University Press, 2014), pp. 172–178.

³⁷Tschalaer, *Muslim women's quest for justice*, p. 166.

³⁸Untitled document on the nature of Muslim marriage (circa 2013), Amber collection.

of *mehr* (bridal dowry), and *nikah-i-halalah*.³⁹ To condemn those who engage in such reprehensible innovations, she cites *ayahs* that warn against transgressing God's law (65:2–12).⁴⁰ Her notes also state that marital dissolution (*tafriq*) is reviled by God, and that when it is necessary, it must be done according to Quranic procedures, which involve staggering the revocations over the three-month 'iddat (waiting period) and making serious attempts at reconciliation (65:1–3; 4:35).

Amber's predominantly Quranic understanding of matrimonial laws was also carried through into one of the AIMWPLB's most visible early campaigns, which was to develop a *nikah-namah* (Muslim marriage contract) that enshrined the true principles of what she terms 'Quranic marriage'.⁴¹ Partly in response to what was seen as an insufficiently egalitarian draft marriage contract published by the All India Muslim Personal Law Board in 2005 (which, among other things, protected a husband's unilateral right to divorce and demanded the wife's unconditional obedience to her husband), Amber convened a largely female 30-strong 'team of learned scholars' to develop a more progressive alternative.⁴² The AIMWPLB's *nikah-namah*, first released in 2008, included specifications to protect the wife such as a contractual bind upon the husband to refrain from instant triple-*talaq* divorce, the delegation of the right of divorce to the wife in certain circumstances (*talaq-i-tafwiz*), and the provision of so-called *teen-tuher* (allowing the wife to continue residing in the marital home throughout the 'iddat period if required).⁴³ The document also carried sections for each spouse to list essential personal details such as their age, proof of residence and income, and to sign declarations of their consent to the marriage and current marital status; this was designed to prevent underage, coerced, or undeclared polygamous marriages.⁴⁴

Amber's teachings on marriage and the AIMWPLB's *nikah-namah* alike show how far Amber's reformist agenda has drawn upon the Quran directly. Amber's notes contain no reference to the major Hanafi legal textbooks (such *Al-Hedayah*) that have shaped both madrasa curricula in India and the case law adjudicated in state courts. Nevertheless, there are a few nods in her notes to certain hadiths. For instance, elaborating on marital relations, she quotes one well-known hadith that references Eve's creation from a 'crooked' rib of Adam that cannot be straightened.⁴⁵ Amber's allusion to this hadith is intended to illustrate the need for husbandly tolerance of the wife's faults: the commentary here elaborates that women may be 'emotional' and 'volatile', and thus need to be treated with kindness.⁴⁶ The inclusion of this hadith in Amber's understanding of Muslim marriage reveals a few points. First, that while

³⁹Ibid. *Nikah-i-halalah* (known also as *tehlil* marriage) refers to an intermediate temporary marriage contracted and then dissolved in order to allow a woman to remarry a former spouse. For some background to legal controversies around the practice, see Saumya Saxena, 'Nikah halala: The petition, the promise and the politics of personal law', in *Mutinies for equality: Contemporary developments in law and gender in India*, (eds) Tanja Herklotz and Siddharth Peter de Souza (Delhi: Oxford University Press, 2021), pp. 133–154.

⁴⁰Untitled document, Amber collection.

⁴¹'Shari'i Nikah contract, or Instructions booklet for Nikah contract as per Quran' (n.d.), Amber collection.

⁴²Amber, 'Journey of a pedestrian'.

⁴³'Shari'i Nikah contract'; c.f. 'Women's charter', *Frontline* (Chennai), 11 April 2008, Amber collection.

⁴⁴'Shari'i Nikah contract'.

⁴⁵Untitled document, Amber collection. The hadith in question is *Sahih al-Bukhari* 5186.

⁴⁶Ibid.

Amber's vision of Muslim matrimony is chiefly Quranic, it also includes some lessons from the Hadith canon. Second, it also incorporates the widespread understandings pervasive in Islamic legal discourse of the male/husband's duty as protector and of the female/wife's tendency to emotivity; as such, Amber's understanding of the marital union entails clearly Islamic motifs of temperamental difference and spousal complementarity.

By contrast, the BMMA, founded after the AIMWPLB, has gone further in assigning the Quran not just a primary but the sole position as the point of access to the knowledge of God's laws. The organization's national leaders have used the Quran as a basis both for thinking through the principles of women's equality and the institution of Muslim marriage, circulating their ideas prolifically through print and digital media. As BMMA co-founder Zakia Soman argues:

We believe the Word of Allah is found in the Holy Quran and everything else—shariat, schools of thought, different laws come after that. For us the only divine source is the Quran and we are fully capable of reading and interpreting the principles and values laid therein by ourselves... We don't allow the cleric or anyone else to mediate between ourselves and our Allah.⁴⁷

In practice, the BMMA has come close to abandoning references to hadith, let alone sources of *fiqh*.⁴⁸ It has also emphasized far more prominently the language of male-female 'equality' within marriage, rather than Amber's own reference (noted above) to the principles of spousal complementarity.⁴⁹

The BMMA's own methodology for determining the true teachings of the Quran explicitly draws upon the writings of the global so-called 'Islamic feminist' scholar-intellectuals of recent decades. For instance, Niaz's frequent appeal in her articles to understand the Quran's central message of 'care and respect' between men and women by 'putting verses together' rather than reading *ayahs* individually echoes the call of Amina Wadud and other scholar-activists to read the '*weltanschauung* (worldview)' of the Quran holistically.⁵⁰ The influence of Wadud's methodology is equally visible in Niaz's demand to distinguish between the Quran's 'normative' verses (which propound 'immutable... universal values') and the 'contextual' ones which apply only to a 'particular society'.⁵¹ These methods have underwritten key arguments of BMMA activists such as, for example, the argument that polygamy is no longer lawful according to Quranic teachings (the permissive *ayah* of 4.3, they argue, referred to the 'contextual' need to provide marital security to female widows and orphans). Equally, equivalent

⁴⁷Zakia Soman, 'Triple talaq debate is bringing out multiple shades of patriarchy', *The Wire*, 9 November 2016.

⁴⁸The BMMA does not explicitly disown the Hadith canon, but Niaz describes it as 'too vast' to teach easily, and unapologetically accepts the BMMA's turn to the Quran as the source of all relevant teaching on family law issues. Interview, Noorjehan Safia Niaz (BMMA), 22 August 2022.

⁴⁹In frequent public statements and posters regarding the teaching of the Quran, the BMMA's key leaders have placed great emphasis on the *ayahs* that emphasize the equality of men and women before God (for example, 3:195; 4:32; 9:71–2; 33:35).

⁵⁰Niaz, 'Islamic feminism and Indian Muslim women's movement', p. 407; c.f. Wadud, *Quran and woman*, pp. 3–7, 10–11.

⁵¹*Ibid.*

to Amber's *nikah-namah*, the BMMA claim that only the divorce procedures laid down in the Quran should be considered legitimate.

Rather than these perspectives being limited to the BMMA's central leadership, the organization has also created training schemes for its local activists which explain how to 'reread, retranslate, reexplain and reinterpret the Quran', in the hope that they might thereby claim a stake in understanding Islamic laws outside the influence of 'the conservative and dogmatic religious bodies'.⁵² The most significant such scheme was the Dar ul-'Ulum-i-Niswan, an educational programme established in 2014 which was designed to provide training to the BMMA's second-tier leaders (such as its 'qazis') and carried emphasis on the Quran's teachings on family laws.⁵³

While both the AIMWPLB and BMMA have mostly used the Quran as the basis for deciphering more egalitarian matrimonial laws, the BMMA has notably made efforts to extend the Quranic message into its wider teachings on responsible citizenship. One may take as an example Safia Akhtar, a BMMA leader in Bhopal, who has for some years run vernacular Quran classes in the front room of her house for adolescent girls and young women. As well as covering the BMMA's arguments concerning the Quran's teachings on women's entitlement to fair treatment in marriage, her classes also apply the Quran to questions of Muslim citizenship in India. Akhtar argues that Quranic *ayahs* compel tolerance of those of other religions, demand an end to all forms of hatred, and ask all persons to stand up against injustice (10:99; 5:8). She also highlights Quranic teachings on *shura* (consultation: 4:38) to argue for active participation in democracy and availing democratic rights and freedoms.⁵⁴

These examples demonstrate how the BMMA in particular has pushed beyond the initial and often dominant emphasis of Muslim women's activism on personal law reform towards broader questions of the position of Muslims in contemporary India. Using the Quran to argue for Muslim engagement with notions of citizenship and political participation reflects a wider attempt to stall the processes of marginalization, or even exclusion, that Muslims have suffered politically over the last decade in particular.⁵⁵

While these activists' invocation of the Quran is best understood in the light of very current concerns, such as family law and contemporary citizenship, it is worth recalling that such turns to the Quran as a text for the radical remaking of society have a long history in South Asia. Since the nineteenth century, modernist thinkers and so-called 'Quranists' alike have looked to the Quran as Islam's virtual *sola scriptura*, and a means of unshackling Muslims from what they saw as scholasticism rooted in the *mazhabs* (traditional schools of Islamic law).⁵⁶ The modern Muslim feminist appropriation of these principles has been able to draw upon the longer legacy of this aspect of modernist

⁵²Indian Muslim women's foray into a hitherto prohibited terrain: formation of centre for Islamic learning', in Niaz and Soman, *Indian Muslim women's movement*, pp. 364–367.

⁵³BMMA, 'Darul Uloom-E-Niswaan Institute of Qaziat for Women' (2015), papers of the BMMA, Mumbai (henceforth BMMA papers).

⁵⁴Interview, Safia Akhtar (BMMA), 29 August 2018.

⁵⁵For an overview, see Ali Khan Mahmudabad, 'Indian Muslims and the anti-CAA protests: From marginalisation towards exclusion', *South Asia Multidisciplinary Academic Journal*, vol. 24/25, 2020, pp. 1–19.

⁵⁶On 'Quranism' in colonial-era South Asia, see Ali Usman Qasmi, *Questioning the authority of the past: The Ahl al-Quran movements in the Punjab* (New York: Oxford University Press, 2011).

thought in South Asian Islam. Indeed, to reverse the focus for a moment: while these contemporary Muslim feminist organizations have foregrounded direct interpretation of the Quran, contemporary 'Quranist' organizations in India have reciprocally sometimes been prominent advocates of Muslim women's rights. For instance, one such organization in Kerala, known as the Khuran Sunnath Society, founded by the eclectic scholar Maulvi Chekannur, has been at the forefront of some of the most prominent campaigns for Muslim women's rights in South India. In 2008, it filed Public Interest Litigation in the Kerala High Court regarding Muslim Personal Law on inheritance, arguing that laws which assigned unequal shares to male and female heirs were discriminatory and based on a 'misinterpretation of various Quranic principles'.⁵⁷ The group has also launched campaigns against socially enforced veiling, and has been a demonstrative supporter of women's ability to act as imams (prayer-leaders).⁵⁸ We may perhaps read 'Quranist' and 'feminist' thought as embodying parallel strands of Islamic modernism in contemporary India which, while usually distinct, have sometimes found themselves in occasional convergence, implicitly promoting each other's central causes.

Islamic feminism and the 'new form of *fiqh*'

When this brand of Muslim feminism was gaining traction in India in the late 2000s, some commentators were quick to identify it (on account of its readiness to engage in Quranic exegesis) as a local manifestation of the global movement of so-called 'Islamic feminism'.⁵⁹ This was the angle of analysis taken by one prominent Muslim public intellectual writing in 2010, who described the 'small but increasingly influential group of Islamic feminists' in India as part of a 'robust international movement' that included fellow female activists in Iran, Egypt, Turkey, Morocco, South Africa, and North America.⁶⁰ While, as noted above, BMMA and other activists have more commonly framed themselves as 'Muslim feminists', mostly to reflect their adoption of

⁵⁷ *Khuran Sunnath Society & Others vs Union Of India* (2008). In this court case, the Khuran Sunnath pleaded that 'Muslim scholars and legal experts have always given opinion that the shariat law is not immutable and should receive change contextually responsive to social needs'. It argued that inheritance laws of unequal distribution were no longer relevant due to the disbandment of traditional family arrangements in which extended families had cohabited; in modern times, therefore, inheritance laws cause 'havoc' by depriving a deceased's wife of inheritance (ibid.).

⁵⁸ Amid much media reportage and controversy, a Khuran Sunnath Society member, Jameetha Bivi, led Friday prayers before a mixed-sex congregation in 2018. See Arshad Alam, 'Women leading mix gender prayers: smashing patriarchal uncertainties', *New Age Islam*, 30 January 2018.

⁵⁹ Islamic feminism refers to a global discourse of female equality and justice rooted in a re-reading of Islamic scriptures and laws, which emerged in the 1990s–2000s. It has usually been seen as marking a significant shift from the 'secular' rights discourses that previously predominated and is best known through the work of scholars such as Fatima Mernissi, Amina Wadud, Asma Barlas, Ziba Mir-Hosseini, and other personally invested scholar-practitioners. For helpful overviews, see Margot Badran, *Feminism in Islam: Secular and religious convergences* (Oxford: Oneworld, 2009); Ziba Mir-Hosseini, 'Beyond "Islam" vs "feminism"', *IDS Bulletin*, vol. 42, no. 1, 2011, pp. 1–11; Fatima Seedat, 'When Islam and feminism converge', *Muslim World*, vol. 103, no. 3, 2013, pp. 404–420; Valentine Moghadam, 'Islamic feminism and its discontents: Towards a resolution of the debate', *Signs*, vol. 27, no. 4, 2002, pp. 1135–1171. See also above, footnote 36.

⁶⁰ Mohammad Wajihuddin, 'Enter the Islamic feminist', *Times of India*, 10 July 2010, Amber collection.

secular as well as religious reasoning to seek equality and justice for women, they have also intermittently allied themselves with the category of Islamic feminism. It is therefore worth considering here how far India's Muslim feminists have appropriated the hermeneutics of Islamic feminism and incorporated them into their reasoning.

Of the array of modern groups, the BMMA has engaged Islamic feminist thought most directly, largely because its leadership is better versed both in English (the main language of the most prominent 'Islamic feminist' literature) and in the language of transnational and intersectional rights activism which Islamic feminism has co-opted. The BMMA has explicitly identified itself as 'part of the larger wave of Islamic feminism emerging in Islamic/Muslim societies where women are leading the creation of religious knowledge', and as 'drawing inspiration and support from the writings of Islamic scholars [the] world over who are reading the text for upholding gender justice and human rights for all'.⁶¹ Niaz in particular has often quoted globally renowned figureheads of Islamic feminism in her extensive journalism, including scholar-activists such as Amina Wadud, Asma Barlas, and Riffat Hassan most known for 're-reading' the Quran.⁶² Further displaying this direct intellectual and associational link with global Islamic feminism, the BMMA is also a member of Musawah, a self-professed 'global movement for equality and justice in the Muslim family'. This movement was formed in 2009 and is supported by prominent thinkers, including Ziba Mir-Hosseini, Amina Wadud, Zainah Anwar, and Khalid Masud, whose influence the BMMA credits.⁶³ While working on different national and global platforms respectively, the BMMA and Musawah share an aligned ethos: both participate in knowledge activism and progressive reinterpretations of Islamic family laws, and both share a commitment to civil society activism and capacity-building among local leadership.

Islamic feminism as a global movement has often been critiqued for its elitism, operating in English and according to Western notions of feminism and liberal methodologies of textual criticism that do not translate into normative women's experience.⁶⁴ However, the BMMA's engagement with Islamic feminism has been notable for its effort to communicate this sometimes lofty hermeneutics at grassroots level. In recent years, the BMMA's Mumbai branch has been running a certificated, year-long course in 'Islamic feminism', delivered chiefly to adolescent and young women over monthly half-day sessions.⁶⁵ Led by Niaz, the subjects covered in this course echo themes discussed in a wide corpus of Islamic feminist literature, but are delivered in Hindi and in local settings.

As one of the BMMA's most distinctive and creative engagements with the hermeneutics of Islamic feminism, the content of this course is worth examining in some detail. It begins with the theme of *tawhid* (God's unity), which is clearly inspired by Wadud's discussion of the '*tawhidic* paradigm': the belief that the creation of unequal hierarchies of men and women in social relations contradicts God's monotheism.⁶⁶

⁶¹'Indian Muslim women's foray', in Niaz and Soman, *Indian Muslim women's movement*, pp. 366–367.

⁶²Niaz, 'Tryst with herself: genesis and need of BMMA', in *ibid.*, p. 419.

⁶³*Ibid.* See <https://www.musawah.org/>, [accessed 9 January 2024].

⁶⁴For example, Hidayatullah, *Feminist edges*, pp. 6, 37–45; Badran, *Feminism in Islam*.

⁶⁵Interview, Noorjehan Safia Niaz.

⁶⁶Niaz, 'Tryst with herself', in Niaz and Soman, *Indian Muslim women's movement*, pp. 419–20; c.f. Wadud, *Quran and woman*, pp. 25–6, 36–38, 63–66.

Appropriating this reading of *tawhid*, Niaz instructs that ‘there cannot be a hierarchical relationship between the sexes vis-à-vis the Creator’ and therefore men and women need to develop non-hierarchical ‘social relations and interactions’ and relate ‘on a common and equal pedestal’.⁶⁷ This leads towards the next class on *khilafa* (trusteeship), a linked Quranic concept also invoked within Islamic feminism. This asserts humans to be ‘agents of God... with responsibility for managing the affairs of the earth’ and a duty to act with responsibility in all interactions.⁶⁸ A subsequent class addresses the concept of *ihsan* (moral excellence) which appears 194 times in the Quran. Like *tawhid* and *khilafa*, Niaz argues, *ihsan* is too often considered a ‘religious concept’ pertaining only to human obligations towards God, whereas it should be applied also to understanding moral obligations towards other persons. Insufficient reflection, she argues, has been given by religious scholars to how these three concepts of *tawhid*, *khalifa*, and *ihsan* have ‘applicability in human interactions’ and provide a model for social relations.⁶⁹

Influenced by the teachings of Musawah, and especially its founder Ziba Mir-Hosseini, Niaz’s teaching has long emphasized the difference between *shari’a* (God’s law) and *fiqh* (the sciences of jurisprudence, derived from human reason and historically enacted by men).⁷⁰ ‘All classical *fiqh* understanding of the Quran comes from a very male perspective [and] distorts the Quran itself’, argues Niaz, who calls for a ‘new form of *fiqh*’ that returns to the texts directly.⁷¹ This explains why two further classes in this series revisit two of the Quran’s most contentious concepts with a bearing on gender relations, indicating how this new form of *fiqh* might provide alternative readings. One session is dedicated to the principle of *wilayah*, the Quranic term often taken to mean male guardianship or custody over female relatives. Taking *wali* to mean ‘patron’ or ‘helper’, rather than master or guardian, and looking to Quranic declarations of men and women as ‘allies (*awliya*) of each other’ (9:71), Niaz advocates an egalitarian reading of *wilaya* in which men and women are equal and hold reciprocal responsibility.⁷²

Even bolder is a session dedicated to reworking the controversial concept of *qiwamah*, known from the problematic *ayah* 4:34 in which it is often taken to evoke male dominance over women. Quoting scholars such as Asma Barlas, Niaz argues that this verse’s declaration of men as *qawwamun* refers to them not as the ‘masters’ of women but their ‘protectors’, thus exhorting men to ‘fulfil their responsibilities’ of providing and maintaining. She also adds that in the Quranic context ‘men ha[d] *qiwamah* not because they are men but because they ha[d] the social capacity to earn’: that is, their role as ‘protectors’ came from their status as earners. In a contemporary context, when a working wife might be earning and thus count as a ‘contributor’ to the

⁶⁷Niaz, ‘Tawheed—fundamental principle of human relationships’, Niaz private papers, Mumbai (henceforth Niaz papers).

⁶⁸Niaz, ‘Khilafah—responsibility of all human beings on earth’ (Niaz papers); Wadud, *Quran and woman*, pp. 85, 91.

⁶⁹Niaz, ‘Reclaiming the beauty of *ahsan*’ (Niaz papers).

⁷⁰For Ziba Mir-Hosseini’s own elaboration of the *shari’a*-*fiqh* distinction, see Ziba Mir-Hosseini, ‘Towards gender equality: laws and the *shari’a*’, in *Wanted: Equality and justice in the Muslim family*, (ed.) Zainah Anwar (Kuala Lumpur: Musawah, 2009), pp. 23–63.

⁷¹Niaz, ‘Islamic feminism and Indian Muslim women’s movement’.

⁷²Niaz, ‘Wali/ Wilaya—egalitarian concept’ (Niaz papers).

household, then the husband's status as the single 'protector' ends. Unequal spousal relations, Niaz argues, no longer necessarily apply in modern households.⁷³

Niaz's reworking of *wilayah* and *qiwamah* openly draws upon Islamic feminist scholarship, and in particular Musawah's first prominent academic publication, the volume *Men in Charge?* (2015), which specifically re-evaluated these two legal concepts.⁷⁴ Niaz's classes on *wilayah* and *qiwamah* draw explicit inspiration from essays in this volume.⁷⁵ Moreover, she has called upon this same work in other writings as broader inspiration for the opening of a 'new *ijtihad*' and the 'democratisation of the production of religious knowledge', which has been one of the missions of the BMMA.⁷⁶

However, despite the BMMA's recurrent willingness to align itself with Islamic feminist hermeneutics, there remains some caution about over-association with the category of 'Islamic feminism'. BMMA leaders caution that 'Islamic feminism' is less a clear project than an umbrella term which incorporates a spectrum of viewpoints, some of which may not be favourable to their own agenda. Soman notes the existence of some prominent female community leaders 'passing themselves off as Islamic feminists' while simultaneously valorizing subservient female roles of pious domesticity and motherhood. Giving the specific example of some female North African Muslim religious leaders, she argues that the category can act as 'camouflage' for persons who are 'as patriarchal in their interpretations as the male clerics and leaders'.⁷⁷ For these reasons, Soman claims, 'we should not blindly affiliate ourselves with Islamic feminism'. Arguing for caution in association, she argues that 'we live in an era of labels, and whatever we have achieved, we don't want to lose it all because we didn't think it through'.⁷⁸

Aware of the perils of labels, the BMMA has therefore sought to maintain hermeneutic mobility between a series of intersectional religious and secular, national and transnational discourses of equality and justice. Like some critics of Islamic feminism, BMMA leaders recognize that over-identification with Islamic feminism may exclude the secular discourses and strategies by which women's rights might also be safeguarded.⁷⁹

⁷³Niaz, 'Qiwamah—a feminist reading of the concept' (Niaz papers).

⁷⁴Ziba Mir-Hosseini, Mulki al-Sharmani and Jana Rumminger (eds), *Men in charge? Rethinking authority in Muslim legal tradition* (London: Oneworld Publications, 2015).

⁷⁵Niaz cites in particular the essays by Asma Lamrabet and Omayma Abou-Bakr in *ibid.*; the arguments that she makes in her own writings are resonant of their essays.

⁷⁶Niaz, 'Too much will be lost if we don't speak', in Niaz and Soman, *Indian Muslim women's movement*, pp. 439–442.

⁷⁷Interview, Zakia Soman (BMMA), 21 August 2019. Soman was referring to figures who may have been in a line equivalent to the Egyptian scholar-activist Zainab al-Ghazali, who has sometimes been anchored within the term 'Islamic feminism' while sharing much of her vision with conservative Islamism. See Roxanne L. Euben and Muhammad Qasim Zaman (eds), *Princeton readings in Islamist thought: Texts and contexts from al-Banna to bin Laden* (Princeton: Princeton University Press 2009), pp. 275–301; Miriam Cooke, 'Zaynab Al-Ghazali: saint or subversive?', *Die Welt Des Islams*, vol. 34, no. 1, 1994, pp. 1–20.

⁷⁸Interview, Zakia Soman.

⁷⁹A similar critique is made in Moghadam, 'Islamic feminism and its discontents', p. 1158. This also resonates with other works which have discussed the limitations of 'Islamic feminist' reasoning and activism, and made a robust defence of the importance of liberal/secular feminism as a basis for activism, even outside Western contexts. See, for example, Afiya Zia, *Faith and feminism in Pakistan: Religious agency or secular autonomy?* (Lahore: Folio Books, 2019).

Ultimately, the BMMA's (and other Muslim feminists') blending of multiple discourses of rights reflects a long-standing perception, equivalent to that discussed above, that India's mainstream women's movement has failed to accommodate the specific experience or needs of Muslim women. BMMA leaders have frequently criticized the women's movement in India for being upper caste, upper class, and reflecting elite values; it needs to work harder, Niaz has argued, to accommodate minority (Muslim, Dalit, tribal) women's narratives, and to engage with 'gallis, mohallas and bastis (local neighbourhoods)' rather than social elites.⁸⁰ In this sense, the BMMA positions its own form of Muslim feminism as part of this move towards the pluralization and diversification of the 'feminist' project.

The Quran in the light of the Constitution

This article has so far shown how these Muslim feminists have engaged Islamic teachings and have had direct, albeit qualified, interactions with modes of exegesis and legal discourse resonant of global Islamic feminism. However, one aspect of these groups' activism that is especially distinctive to the Indian setting is their attempt to equate the pathways to delivering women's equality provided by the Quran and the Indian Constitution. As Tschalaer has argued, these women's organizations have considered the Quran and the Indian Constitution as 'two different formulations of the same object' or 'different pathways to achieve human dignity', since they see both texts as enshrining fundamentally equivalent teachings on equality and justice.⁸¹ Shaista Amber has taken this view, arguing that 'constitutional rights are enshrined in the Quran', enabling the blending of Islamic and constitutional activism.⁸²

However the BMMA, which has placed India's Constitution at the heart of its discourse and frequently referred to constitutional provisions as its 'guiding principles', has pushed even harder in blending the Quranic and constitutional pathways for protecting women.⁸³ The BMMA's leaders have moved beyond the language of these texts' shared provision of *rights* to that of their shared elemental *values*: they frequently argue that the Quran's four essential values—'justice, equality, wisdom and compassion'—are equivalent to the central constitutional values of 'justice, equality, freedom and fraternity'.⁸⁴ This argument—which again alludes to their approach of reading the Quran holistically—was visible in the BMMA's founding statement of 2007, which spoke of the central BMMA creed of 'equality, justice, freedom, wisdom and compassion' as an 'an amalgamation of the values of the Constitution and the Quran'.⁸⁵

So important is this equivalence of Quranic and constitutional rights and values for the BMMA that its Dar-ul-'Ulum-i-Niswan training programme (mentioned above)

⁸⁰Abstract for XIIIth Indian Association of Women's Studies, January 2011', in Niaz and Soman, *Indian Muslim women's movement*, pp. 421–422.

⁸¹Tschalaer, *Muslim women's quest*, p. 121.

⁸²Ibid.

⁸³Tschalaer also quotes Naish Hasan as declaring that the Quran is 'like a constitution or human rights declaration', *ibid.*

⁸⁴Niaz, 'I am an Indian Muslim woman: any problem?!', in Niaz and Soman, *Indian Muslim women's movement*, p. 424.

⁸⁵Niaz, 'Indian Muslim women's engagement with the Indian Constitution: it's a personal duty as well!', in *ibid.*, p. 205.

offers simultaneous instruction in the core principles of the Quran and Constitution.⁸⁶ Jahan Aara, a senior BMMA activist from Jaipur, describes her training in a vernacular rendition of the very same principles described above:

Our training has been in Islamic law and in the Indian Constitution: on whether the Indian Constitution gives [Muslim women] equal status and equal rights, what are our [constitutional] fundamental rights, and how does the Quran give us the same rights? They [these fundamental rights] are there in the *ayats*: not categorised like this, but still there. So we can take our rights from the Quran and the Constitution, and our training from both these sources was both practical and theoretical. We consider the principles of Islam to be justice, equality, wisdom and compassion.⁸⁷

This deliberate merging of the values of the Quran and Constitution is significant for various reasons. First, by arguing that the Quran and the Constitution propound effectively identical values, the BMMA seeks to dismiss the purported conflict between the protection of women's rights and the inviolability of religious personal laws that has recurred in public life. While clerical groups such as the AIMPLB have long argued that religious personal laws stand beyond the reach of constitutional provisions on individual rights (Articles 14–15), the BMMA's argument flips the logic: properly understood 'Quranic' rights would naturally accord with constitutional rights, nullifying the former's attempt to draw boundaries between constitutional rights and Muslim Personal Law. Not only does this argument mean that gender-just interpretations of Islamic laws are thereby at once Quranic and constitutional, it also means that erroneous practices (such as instant triple-*talaq*, for example) are not simply un-Islamic but unconstitutional and thus should not enjoy legal protection.

The BMMA has sometimes been accused of re-reading the Quran through the prism of the Indian Constitution and, therefore, of failing to take the Quranic message on its own terms. However, the counter-argument to this is that, for Muslim feminists, it is ultimately the Constitution, and specifically the constitutional right to 'freely profess, practice and propagate religion' (Article 25), that protects their individual freedom to reinterpret the Islamic tradition. As Soman argues, the Constitution 'acknowledges every person's religiosity' and 'gives every citizen... permission to express religion on [their] own terms'.⁸⁸ By this logic, the Constitution ultimately upholds the right of the BMMA's activists to engage in their own unhindered interpretation of Islamic teachings, and disavows any counter-claims from others, especially 'ulama-bodies, to be the exclusive purveyors of expertise.

The BMMA further applies constitutional principles within the 'new form of *fiqh*' which it has sought to promulgate. According to Soman, the forms of religion that are protected by the Constitution are those that work 'in the light of constitutional principles'; that is, those that reflect the Constitution's commitments to 'equality before the law' and 'freedom from discrimination'.⁸⁹ In other words, the values of the Constitution

⁸⁶BMMA, 'Darul Uloom-E-Niswaan Institute of Qaziat for women'.

⁸⁷Interview, Jahan Aara (BMMA), 21 August 2017.

⁸⁸Interview, Zakia Soman.

⁸⁹Ibid.

(that is, justice, equality, wisdom, and compassion) should set the framework through which religious personal laws should be interpreted. Insofar as the Constitution is the foundational statement of Indian secularism, we see here how the BMMA reads the latter: India's secularism should mean that the state protects and nourishes those forms of religion that uphold these fundamental constitutional principles, while also proactively dispelling religious practices that do not accord with these core values.⁹⁰ This is an attempt by the BMMA to renew what they see as the proper model of Indian secularism. While, in their view, the state has historically often tried to excuse itself from engagement with Muslim personal laws, the BMMA leadership has desired to re-engage the state's constitutional duty to intervene in as well as abstain from minority religion.

Islamic modernism and the need for the law

In this final section, we focus on a perhaps slightly counterintuitive trend of this strand of Muslim feminism: that the organizations discussed in this article, which were founded with a new enthusiasm for grounding women's rights in Islamic teachings and engaging religious reasoning, have often been simultaneously those most willing to call for state intervention in the regulation of Muslim Personal Law.⁹¹

This partly state-oriented strategy demands some attention. In the years after the Shah Bano affair, mainstream women's rights activists in India had often shied away from seeking state lawmakers' involvement in reforming Muslim personal laws, seeing such interventions as too politically sensitive.⁹² Some of the main Muslim women's organizations in the 1990s–2000s sought the 'middle ground' strategy of 'engag[ing] with all sections of Muslim society, activists and Ulema to resolve issues internally' rather than demanding state involvement.⁹³ Since that point, many women's rights NGOs (including those that work closely with Muslims) have looked to existing legislation, progressive court judgments, and constructive engagement with non-state actors

⁹⁰In addition to works on secularism cited above, for reflections on the fluid model of Indian secularism as rooted in the courts' handling of competing constitutional obligations to accommodating and prohibiting religious practices in the public domain, see Ronojoy Sen, *Articles of faith: Religion, secularism and the Indian Supreme Court* (Delhi: Oxford University Press, 2010).

⁹¹This claim does not discount the fact that the organizations discussed here have simultaneously devoted huge energy to working via non-state dispute resolution strategies at the local level. As discussed above, both the AIMWPLB and BMMA have run counselling services and *shari'adalats*, reflecting their belief that many disputes are best handled not by approaching the state but through intra-community practices of mediation and arbitration along the lines proposed in the Quran (4:128; 4:35; 4:58; 42:40; 49:9–10). The BMMA's *qazis* say that they largely try to resolve disputes through these mechanisms without approaching state authorities. Interview, Khatun Shaikh (BMMA), 8 April 2017.

⁹²For instance, the liberal-secular All India Democratic Women's Association argued that after the Shah Bano affair the Muslim community should be responsible for reforming its own laws 'from within' without state direction. Meanwhile, nationally prominent lawyer-activists like Tahir Mahmood and Flavia Agnes reneged on their earlier support for major legislative interventions into Muslim personal laws, fearing political controversy. Kumar, *The history of doing*, pp. 163–171.

⁹³This was the stated policy of the first president of the Muslim Women's Forum, Saeeda Khurshid: Syeda Saiyidain Hamid, *Pathbreakers: The twentieth century women of India* (Delhi: Muslim Women's Forum, n.d.), p. 43.

as providing ample mechanisms to defend women's rights without the need for contentious legislative intervention.⁹⁴ However, some of the recent generation of Muslim women's groups have revoked this earlier caution, seeing engagement from the legislature as essential for overcoming the historic legacies of state non-interference and initiating meaningful change for women.

There have been several forms of this more state-facing strategy. First, these women's groups have petitioned for closer official regulation of Muslim marriages. The AIMWPLB, BMMA, and other organizations have, as discussed above, produced their own versions of gender-just *nikah-namahs* (marriage contracts).⁹⁵ They have implored betrothed couples to adopt these contracts voluntarily, but both organizations have also lobbied the government to adopt these as standardized, state-issued contracts. Linked with this has been the demand for the compulsory state registration of Muslim marriage. India does not have a uniform system for civil recognition of Muslim marriages, and while various states have their own Muslim marriage registration acts, regularized practices of registration are not consistently upheld.⁹⁶ Amber has frequently lobbied for the state registration of *nikahs*, while the AIMWPLB's *nikah-namah* has carried the provision that the document must be filed with a government registry office.⁹⁷ Similarly, the BMMA's *nikah-namah*, first published in 2009, demanded that the marriage must be officiated by a government-authorized *qazi* (registrar).⁹⁸ Both of these *nikah-namahs*, in other words, attempted to protect women by bringing Muslim marriages under the purview of greater government regulation.

A second set of initiatives by both these organizations comprises demands for more state legislation on various aspects of personal laws; of these, the most commonly raised aspect in historical perspective has been that of instant triple-*talaq*. From the foundation of the AIMWPLB and in line with many women's rights activists of earlier generations, Amber called for this form of divorce to be banned by a government Act. She described the strategy of community awareness-building (suggested by many 'ulama organizations as the means to banish the practice) as insufficient and instead

⁹⁴For example, the Mumbai-based NGO Majlis, run by Flavia Agnes, has advocated 'advancing the law through judicial pronouncements' as the best means to protect Muslim women in the absence of intervention by lawmakers into personal laws: Flavia Agnes (ed.), *Defending Muslim women's rights: Bridging Muslim personal law and court judgements* (Mumbai: Majlis, n.d.). This volume cites the famed Daniyal Latifi court judgment (2001), which largely settled the question of Muslim women's access to post-divorce maintenance, as a key example of how case law offers a pathway for protecting women's rights within a personal law framework.

⁹⁵For template marriage contracts as a means of entrenching marital protections for women, see A. Suneetha, 'Muslim women and marriage laws: Debating the model *nikahnama*', *Economic and Political Weekly*, vol. 47, no. 43, 2012, pp. 40–48; Tschalaer, *Muslim women's quest*, pp. 104–141.

⁹⁶The Muslim Personal Law Board, meanwhile, has for years spoken out vociferously against proposals for the compulsory registration of Muslim marriages, framing it as an example of state overreach and a violation of the traditional *nikah* contract. Niaz Ahmad Rahmani, *Lazmi nikah rejstreshan Kashmeer se Bangal tak* (Delhi: All India Muslim Personal Law Board, 2007 [1991]).

⁹⁷'Shari'i Nikah contract', Amber collection.

⁹⁸'Nikaahnama and iqarnama', in BMMA, *Muslim Family Law: Draft for the Bill* (Belgaum: Omega Publications, 2017), pp. 33–42; Yoginder Sikand, 'The BMMA's Muslim marriage contract: Championing Muslim women's rights in the absence of legal reform', <https://bmmaindia.wordpress.com/2016/01/03/the-bmmas-muslim-marriage-contract-championing-muslim-womens-rights-in-the-absence-of-legal-reform/>, [accessed 9 January 2024].

called upon the government to legislate on the matter.⁹⁹ It was the BMMA, though, that became most associated with the call for the state to abolish the practice. From 2016, the BMMA stood as co-petitioner in Shayara Bano's litigation for a constitutional ban on instant triple-*talaq*, which went to the Supreme Court in 2017 and led to its judgment (albeit by a majority on a split bench) that triple-*talaq* was unconstitutional.¹⁰⁰ Most Muslim women's and 'secular' rights groups celebrated the verdict, seeing it as a pathway for progressive judicial practice. However, many of these groups became deeply uneasy with the draft legislation that this judgment prompted.¹⁰¹ In the public debates that emerged before and after the final passing of the Muslim Women's (Protection of Rights on Marriage) Act in 2019, the BMMA remained something of an outlier in its support for the government's muscular action in banning the practice, in contrast to some other Muslim women's groups.¹⁰²

While this disagreement around the criminalization of instant divorce provoked a significant and bitter rift among women's organizations, the episode reveals how the BMMA has continued to push for state legislation as essential to ensuring the implementation of more gender-equal Muslim personal laws. As reasoned by Niaz:

We need the law... [court] judgements do not have the force of law... unless we have legislation, the law will not have the effect of force... Once the law comes in, you have the entire state apparatus coming into play: the police, the courts, every arm of the government is activated, which is not the case with judgements.¹⁰³

This statement encapsulates clearly the BMMA's conviction of the necessity of clear government intervention. Indeed, the BMMA has consistently compared the Indian government's piecemeal and cautious handling of Muslim personal laws unfavourably with the approach of many Muslim-majority nations, which long ago implemented comprehensive reforms of family law via statutory personal status codes. Niaz has frequently argued that Muslim women in India have not had the recourse to legal resolution available to women in much of the Muslim world: 'Muslim women have been denied both their Quranic rights as well as their rights as equal Indian citizens' by the

⁹⁹In *Dinon* (Lucknow), 11 May 2005, Amber collection.

¹⁰⁰*Shayara Bano vs Union of India* (2017).

¹⁰¹Groups like Bebaak Collective, another Mumbai-based association that works with Muslim women, recoiled from the resultant legislation, which did not just render instant oral divorce unconstitutional but also criminalized it. This group, as well as the city's NGO Majlis, both criticized the bill's anti-Muslim undertones and implications for women with jailed husbands. See the petition of the Bebaak Collective and others making this case: <https://feminisminindia.com/2018/04/09/bebaak-collective-statement-triple-talaq/>, [accessed 9 January 2024].

¹⁰²Niaz argues that only the government legislation criminalizing triple-*talaq* in 2019, rather than the earlier Supreme Court judgment in 2017, led to a meaningful decline in the practice. She claims that the BMMA's shari'a court in Mumbai used to deal with around 30–40 cases of instant divorce each year. This did not fall appreciably after the 2017 judgment, but did decline dramatically after the 2019 Act, after which the court has received only one case in each of the last three years. Interview, Noorjehan Safia Niaz.

¹⁰³*Ibid.*

lack of 'codified personal laws governing marriage and family', as exist in Morocco, Tunisia, Turkey, Egypt, Jordan, Pakistan, and Bangladesh.¹⁰⁴

While the issue of triple-*talaq* has garnered most media coverage, the BMMA's lobbying of the government to enact legal reforms in Muslim Personal Law has been far-reaching. Looking back a few years, one of the BMMA's most audacious proposals to prompt legislative engagement was its blueprint for a full code of Muslim Personal Law, published as a 30-page 'Draft Family Law Bill' in 2014.¹⁰⁵ This text, which eclectically combined existing civil laws with highly liberal readings of shari'a laws, was the product of several years of discussions with nationally prominent Muslim lawyers and liberal community leaders: its authors give a great deal of credit to Asghar Ali Engineer, one of the most prominent Indian Muslim modernist thinkers of recent decades, whose counsel shaped the bill before his death in 2013.¹⁰⁶ Many of the stipulations in the BMMA's draft were somewhat unorthodox.¹⁰⁷ Yet, the bill stands as the BMMA's most comprehensive statement of a progressive re-reading of Islamic family law, and hence, of a particular project of Islamic modernism that called for attention from lawmakers.

This Muslim feminist strategy of encouraging direct government intervention sits out of line with the long-held approach of some other strands of women's rights activism in India which, as noted above, have historically been more cautious about calling for direct government intervention in Muslim Personal Law. There are various reasons why this new, more state-centred approach might have arisen when it did among Muslim feminist activists, around the mid-2000s. Several high-profile media sagas surrounding distressed Muslim women, such as the Shamim Ara, Gudiya, and Imrana cases (2002, 2004, and 2005 respectively) had all publicly demonstrated the tragic lack of recourse that women had to protection under Muslim Personal Law. Serious anti-Muslim pogroms in Gujarat (2002) and the findings of the Sachar Committee Report (2006) that Indian Muslims continued to experience high levels of socio-economic 'backwardness' relative to other communities all demonstrated the absence of state protection and exposed the need for radical solutions, many of which necessitated commitment from the state.¹⁰⁸ While the avowedly 'secular' United

¹⁰⁴Niaz, 'Women should get equal rights as citizens', *Indian Express*, 7 January 2016.

¹⁰⁵BMMA, *Muslim Family Law: Draft for the Bill*. This 'bill' is discussed in more detail in Justin Jones, 'Towards a Muslim Family Law Act? Debating Muslim women's rights and the codification of personal laws in India', *Contemporary South Asia*, vol. 28, no. 1, 2020, pp. 1–14.

¹⁰⁶Zakia Soman, 'Dr Asgharali Engineer, a champion of equality for Muslim women', in Niaz and Soman, *Indian Muslim women's movement*, pp. 397–400. Engineer's works share much of their agenda and teachings with the BMMA's activism; see especially Asghar Ali Engineer, *The rights of women in Islam* (Delhi: Sterling Publishers, 2008 [1992]). The BMMA have also worked closely with the Centre for Study of Society and Secularism, founded by Engineer.

¹⁰⁷The bill included bans on improper divorce and other practices, and the implementation of a 'Quranic' divorce procedure (*talaq-i-ih-san*) that would be overseen by state-licensed operatives or registered NGOs. Other stipulations were derived either from the recovery of minority opinions within Islamic legal thought or through blending with existing civil laws: these included setting the *mehr* at one year's salary, equalizing inheritance between male and female children (by virtue of *hiba*, or Islamic 'gifting'), and the fixing of marriage age at 21 for men and 18 for women. Jones, 'Towards a Muslim Family Law Act?', *passim*.

¹⁰⁸Some of these factors are cited by BMMA leaders as incentives for the organization's foundation. Interview, Zakia Soman.

Progressive Alliance (UPA) federal governments of that era may arguably have provided a comparatively amenable environment for Muslim women's organizations to mobilize in the public sphere, it is also significant that the more state-facing strategy survived during the powerful BJP-led governments of 2014 onwards.

For the purposes of this article, the fact that these Muslim feminist groups have called for more state involvement in religious laws may also make sense when we remember that Islamic modernism has historically been a largely state-centric project. Since the colonial period, the major proponents of Islamic modernism and those calling for reformulation of Islamic laws, whether in South Asia or beyond, were those closely tied to the state.¹⁰⁹ South Asian stalwarts of these ideas, whether the nineteenth-century modernists or their twentieth-century successors, including Abul Kalam Azad, A. A. Fyze, or Hamid Dalwai, were typically trained in government educational and legal institutions, and were keen to harness the state's educational and political institutions and law-making capacity to pursue the Muslim community's modernization. The manifestations of Islamic modernism in South Asia since independence have retained this element of state-centrism, even carrying an 'authoritarian streak' in their instinctive focus on using state machinery for the implementation of a reformist agenda.¹¹⁰ While Muslim women's organizations like the BMMA have sometimes been cast as somehow erroneous for their perceived willingness to call for legislative intervention, they in fact fulfil a long-term genealogy of efforts by Muslim modernists to engage the state as a necessary vehicle for enacting reform.

Conclusion: Muslim women's activism through the Quran and the Constitution

As this article has shown, a number of Indian Muslim feminist organizations in the last two decades have engaged Islamic piety and knowledge in unprecedented ways. Alongside pursuing legal, educational, and socio-economic campaigns for the protection of women, they have instrumentalized the reinterpretation of religious texts as part of their strategy of women's activism. Furthermore, as this article has shown, they have positioned their own efforts as responses to the wider failures of the project of Islamic modernism in India since independence. The several facets of the women's activism discussed in this article all reveal these scholar-activists' engagement with key tenets of the Islamic modernist project: the endeavour to establish the Quran as the superlative or even sole source of guidance on Islamic teachings, the willingness to advocate *ijtihad* and a new *fiqh* that might facilitate progressive teachings about Muslim family law and social relations, and the wish to bring religious reasoning into dialogue with contemporary issues of constitutionalism, social justice, and state governance.

This generation of Indian Muslim feminists has been influenced by well-known, home-grown Islamic modernist and liberal thinkers of recent decades mentioned in this article, such as Tahir Mahmood, Zeenat Shaukat Ali, and Asghar Ali Engineer. But

¹⁰⁹ Ahmad, *Islamic modernism*; Kurzman (ed.), *Modernist Islam*.

¹¹⁰ Zaman, *Islam in Pakistan*, p. 54. Pakistan's post-colonial history itself illustrates Islamic modernism's close link to the state: for example, twentieth-century Islamic modernists, including Muhammad Asad and Fazlur Rahman, were closely linked with government-recognized Islamic bodies, such as the Islamic Research Institute.

they have also had to look further afield to global intellectual currents, especially 'Islamic feminist' thinkers whose ideas they have selectively appropriated and promoted through their local education initiatives. Significantly, like these other Muslim modernists, the 'Muslim feminists' discussed above have eschewed an exclusive focus on women's equality and engaged a wider remit of messaging on Muslim civic engagement, democracy, and constitutionalism, in order to address the fragile position of India's Muslim minority.

Indeed, their harnessing of the Indian Constitution is perhaps the most striking element within this form of Muslim feminism. Both the main organizations discussed in this article have suggested equivalence between the rights and values embedded in the Quran and Indian Constitution ('equality, justice, freedom, wisdom and compassion', to requote the BMMA's founding statement). But the BMMA in particular has considered the Constitution, which guarantees both the equal rights of all individuals and the self-determination of religious communities, as setting the values-framework through which Islamic texts and teachings may be rightfully interpreted.

The BMMA has in effect asserted the Constitution as the framework for the governance of religion in India. We have seen how the BMMA has used constitutional reasoning to demand state intervention in issues from which it had long been absent (for example, in the campaigns for the abolition of instant divorce, registration of marriage, or codification of personal laws, as well as others). But simultaneously, the BMMA has also used constitutional reasoning to demand limitations on state overreach where a Hindutva-guided government has threatened to encroach upon the religious practices of individuals (for example, in government moves to ban the consumption of beef in Maharashtra or to ban the hijab in educational institutions in Karnataka).¹¹¹ As these examples show, the BMMA has used the Constitution as a guide not only for the reform of religious personal laws, but for the accommodation of religion in civil society at large, showing how it has brought both feminism and constitutionalism together under its Islamic modernist project.

On the one hand, this harnessing of the Constitution reflects a longer history of constitutional activism in India. Since the formation of the republic, ordinary citizens and civil society activists have appropriated constitutional reasoning to argue, or indeed litigate, for the protection of various religious, social, or occupational rights.¹¹² More specifically, however, this trend needs to be contextualized within a wider trajectory of change in Muslim civil society activism in the last 15–20 years. Arndt Emmerich's recent study of one very different civil society Muslim organization, the Popular Front of India (PIF) based in the nation's southern states, outlines what he sees as a shift in Indian Muslim activism. Since around 2006, Emmerich argues, a formerly 'inward-looking approach', focused on the protection of Muslim Personal Law and minority culture and institutions, has given way to a 'new trend of Muslim citizenship politics' characterized by more 'inclusive debate centred on socio-economic marginalisation and empowerment'.¹¹³ This form of Muslim citizenship politics, he argues, has

¹¹¹Niaz, 'Indian Muslim women's engagement', p. 206.

¹¹²Rohit De, *A people's constitution: The everyday life of law in the Indian Republic* (Princeton: Princeton University Press, 2018).

¹¹³Arndt-Walter Emmerich, *Islamic movements in India: Moderation and its discontents* (Abingdon: Routledge, 2021), pp. 2–3, 192–194.

maintained a clear and visible ‘Muslim-ness’, but has appropriated the language of citizenship, and constitutional and human rights. While the organization discussed by Emmerich is very different from the Muslim feminist groups discussed in this article, the latter can be looked at through a similar lens. They have similar roots in the Muslim middle class, a comparable stake to a voice in the public sphere, and they have emerged in a similar timescale. Also, as we can see with the BMMA, there is a clear parallel in how they have amalgamated religious and constitutional claims, demanding not just Quranic rights as Muslim women but constitutional, democratic, and socio-economic rights as Indian citizens.

To put this another way, this article suggests that the strand of Muslim feminism discussed here comprises an expression of both Islamic modernist reasoning and an identifiably Muslim rights-based activism grounded in Indian citizenship and the Constitution. In more modern times, the harnessing of constitutional rights by Muslim women which has developed over the last 15–20 years looks especially prescient in light of the Constitution-centred activism which erupted via the protests against the Citizenship Amendment Act (CAA) in 2019–2020. While this subject cannot be covered in this article, it was well-observed at the time that this demonstration of activism was prominently led by Muslim women, who during the protests combined religious and constitutional rhetoric, reciting Quranic *ayahs* alongside the Constitution’s Preamble and Fundamental Rights. Most discussion of these protests has considered them as a ‘seemingly new phenomenon’, grounding them within their immediate political context in the aftermath of the 2019 elections and an anti-Muslim political agenda.¹¹⁴ The story told in this article, however, reminds us that Muslim feminist organizations, which for almost two decades have developed a discourse of rights activism rooted equally in Islamic modernist reasoning and constitutional values, have laid the ground for some of the most visible contemporary trajectories of Muslim civil society activism.

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¹¹⁴Fahad Hashmi, ‘The politics of Shaheen Bagh’, *Samaj*, vol. 28, 2022, p. 1; Qudsia Contractor, ‘Feminizing citizenship: Why Muslim women protest against the CAA’, *Political Science and Politics*, vol. 54, no. 4, 2021, pp. 639–640.

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