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A Genuine Islamic Conceptualization of Religious Freedom

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Abstract: Departing from a critical norm research perspective, the paper first sketches the need to unveil the Eurocentric and secular bias of International Relations (IR) as a discipline in general and its constructivist norm research program in particular. With regard to human rights norms, and religious freedom in particular, the dominant liberal-secular international human rights law understanding of religious freedom marginalizes religious, and especially, Islamic grounds and understandings of this truly global norm. Indeed, it demonstrates both, the dominant ideational perspective of religious freedom as a Western human right grounded by Western-canonical thinkers, and the limits of accommodating religion and religious voices in IR. In contrast, and against the background of a post-secular IR, the paper seeks to unveil alternative and marginalized bodies of Islamic knowledge for the sake of a more comprehensive picture to be painted by IR. By reconstructing reformist Islamic thought and Islamic ideational perspectives and conceptualizations of religious freedom, the paper seeks to let these voices speak for themselves as truly genuine Islamic contributions to IR. The overall aim is threefold: to theoretically connect critical norm research and post-secular approaches with reformist Islamic thought by conceptualizing *ijtihad* as religious norm contestation; to unveil the double marginalized character of critical Muslim voices in IR; and finally to paint a broader and more comprehensive picture of Islam and IR by revealing an alternative Islamic genealogy of universal religious freedom.

Keywords: critical constructivist norm research, religious norm contestation, religious freedom, Islam, *ijtihad*

Introduction

‘At Home with Religious Freedom’ is the subtitle of Saeed’s article ‘Islam and Belief’ (Saeed 2014), one of the proponents of Islamic scholars who, through a
critical re-reading of the Qur’an, the sunna, and the hadith,¹ devote their scholarly work to disclose that popular interpretations of Islam which restrict religious freedom contradict the divine sources of Islam. Indeed, these popular interpretations argue poorly for religious freedom. However, they dominate the main perception of Islam and its reluctance with assuring universal human rights in general and religious freedom in particular. Moreover, the poor compliance record of Muslim majority states with religious freedom as well as international controversies such as the right to change one’s religion debate and the defamation of religion campaign (Badri 2016) apparently demonstrate the practical incompatibilities of Islam and religious freedom. In fact both, the dominant popular interpretations of Islam and the human rights practice of Muslim majority states do their part in painting this dark picture of Islam and religious freedom.

However, this dark painted picture is additionally veiled by a liberal and secular bias of International Relations (IR) which marginalizes religious (and thus Muslim) voices in general. Critical norm research tells us that there is a Eurocentric or liberal bias in conventional constructivist research on norms and mainstream global governance literature. Whether it is human rights, gender or anti-whaling norms, IR as both discipline and practice marginalizes non-Western perspectives and infantilizes non-Western agency. The post-secularism debate also tells us that IR inherently entails a secular bias: Again, in both discipline and practice IR marginalizes religious voices. For instance, they face the difficulty of an uneven playing field vis-à-vis their liberal-secular counter-parts (Kayaoğlu 2014a). In general, both of these biases reveal the limits of accommodating religion in IR. However, both approaches also offer fruitful strategies to overcome these biases. For instance, norm contestation is put forward as a concept to localize, translate, appropriate or otherwise interpret the changing meaning of norms in line with diverging historical, spatial and cultural contexts. Other critical scholars propose the reconstruction of marginalized bodies of knowledge to bring about new interpretations of norms and normativity. And finally, the concept of post-secularism calls for an explicitly religious contribution to, and even conceptualization of, ‘liberal’ norms. As a matter of fact, these strategies perfectly fit or overlap with reformist Islamic scholars’ efforts to critically engage with their own marginalized body of knowledge.

¹ According to Saeed and Saeed (2004, 208, 213), sunna is defined as the normative behavior of the Prophet Muhammad and hadith is defined as reports relating to the sayings and deeds of the Prophet. Sometimes sunna is used to refer to hadith, and vice versa. Since the sunna is only accessible through these reports (Bauer 2011, 144), in this article, if not otherwise mentioned, I use both terms interchangeably since they all refer to Prophetic traditions, deeds and sayings.
‘The New Voices of Islam’ (Kamrava 2006b), although still marginalized by popular interpretations of Islam, continue to spread, enrich and diversify the otherwise dark painted mainstream picture of Islam and human rights and religious freedom in particular. Whether to name these new voices reformist, modern, or revisionist, what they have in common is that they are critical. Critical in the sense that they unveil dominant power relations, critically re-read and re-interpret the Islamic sources and jurisprudence with a renewed *ijtihad* (independent reasoning) and ultimately seek to *emancipate* religion from popular interpretations of Islam. The concept of *ijtihad* is key to their critical engagement. *Ijtihad* means independent reasoning based on the Qur’an and the *hadith*, calling on the jurist ‘to reach a solution or a rule (*hukm*) on a religious matter’ (Hallaq 1995, 179). While fundamentalists have a literalist interpretation of the sacred texts, reformists ‘embrace a dynamic and context-driven approach to *ijtihad*, calling for interpreting the text based on changing and evolving circumstances’ (Kamrava 2006a, 10). With this renewed *ijtihad* that calls for the continuous, dynamic and historically contextualized interpretation of the divine principles of Islam, these critical voices actually take part in norm contestation processes. Next to this obvious similarity to what critical norm researchers conceive of norm contestation, it is consequential to conceive this specific kind of norm contestation as *religious* norm contestation since *ijtihad* is a genuine Islamic concept. Conceiving of *ijtihad* as religious norm contestation, critical Muslim voices meet the post-secular call for a religious contribution to or even conceptualization of ‘liberal’ norms, and religious freedom in particular. What these voices contend is what I will reconstruct here, that religious freedom can be at home with Islam (Saeed 2014): ‘freedom of belief and religion are desirable. To reach such freedoms through Islam requires studying some of the fundamental rules of the religion and a renewed *ijtihad* in certain aspects of Islamic *fiqh* [jurisprudence; FB]’ (Kadivar 2006, 121).

By pursuing a deconstructive strategy and reconstructing marginalized Muslim voices on religious freedom, I show that genuine Islamic conceptualizations of religious freedom bring about new, alternative and contextualized interpretations of the norm that smoothly fit with the principles of human rights. The overall aim is threefold: First, to theoretically connect critical norm research and post-secular approaches with reformist Islamic thought by conceptualizing *ijtihad* as religious norm contestation. Second, to unveil the double marginalized character of critical Muslim voices in IR as both, marginalized by popular interpretations of Islam and marginalized in discipline and practice of IR. And third, to paint a broader and much more comprehensive picture of Islam and IR and in particular Islam and religious freedom by revealing an alternative genealogy of universal religious freedom.
Critical Constructivist Norm Research and the Secular Bias of International Relations

Critical constructivist norm research tells us that conventional constructivist research on norms and mainstream global governance literature is inherently biased by an Eurocentric and liberal-Western predisposition. Whether it is human rights, gender or anti-whaling norms or democracy promotion and (liberal) peacebuilding, IR as both discipline and practice marginalizes non-Western perspectives and infantilizes non-Western agency (Bettiza and Dionigi 2015; Epstein 2012; Wolff and Zimmermann 2016). These forms of silencing alternative voices are due to the implicit normative bias of ‘good’ global or liberal norms in contrast to ‘bad’ local beliefs and practices. It reveals a severe manifestation of marginalizing and de-legitimitizing non-Western value systems and bodies of knowledge, on the one hand, while neglecting the historical contingency and the dark sides of allegedly ‘good’ and ‘widely accepted’ liberal norms, on the other (Engelkamp, Glaab, and Renner 2012, 104–5, 107–8).

Against this background, critical constructivists propose fruitful research approaches to avoid this Eurocentric predisposition reaffirming and naturalizing Western understandings of norms. Wiener, for instance, introduces the concept of norm contestation to show ‘the range of social practices, which discursively express disapproval of norms’ (Wiener 2014, 1) and reveals that norms can have different, changing meanings and interpretations. Norm contestation ‘is put forward as an analytical concept to grasp the diverse practices by which actors – usually the supposed recipients or followers of the norms in question – dispute the validity, the meaning or the application of norms’ (Wolff and Zimmermann 2016, 518). These social practices inherently have an emancipatory, critical impetus and depict rather moderate (intra-systemic) or radical forms of resistance based upon local, bottom-up, or otherwise alternative normative perspectives which are marginalized by liberal global norms. Acharya (2004, 2011), for instance, reveals how processes of norm contestation can range from reinterpretation of global norms to adjust to or fit with regional or domestic contexts (‘norm localization’) up to the creation of new regional norms to preserve regional autonomy from dominance and neglect of the outside world (‘norm subsidiarity’). Bearing in mind the diversity and plurality of normative orders in the global context, contestation is expected to happen all the time. Therefore, Wiener convincingly argues to consider international relations as ‘inter-cultural relations’ (Wiener 2014, 3, 7) and to institutionalize contestation in an appropriate framework to facilitate a bottom-up participation in the process of negotiating normativity, and ultimately to bring about understanding and legitimacy in global governance (Wiener 2014, 42–3).
Next to norm contestation as an analytical tool which bears normativity, Engelkamp, Glaab, and Renner (2012) propose the reconstruction of marginalized bodies of knowledge with context-sensitive research strategies derived from post-colonial and feminist studies as another fruitful strategy to avoid the Eurocentric predisposition and liberal bias of IR norm research. This strategy is described as a certain practice of critical reading and listening, techniques such as Said’s contra-puntal reading (Said 1994, 51) of the Western cultural archive which tries to read its history with the awareness of the simultaneousness of privileged hegemonic dominance on the one hand, and the marginalized positions and perspectives which were carved out of the very same archive, on the other (Engelkamp, Glaab, and Renner 2012, 115). The overall task of this post-colonial research approach is to ask for the origins of apparently global norms, the conditions of their attainment and whom and which purpose they served (Grovogui 2010). Studies in this perspective reconstruct different bodies of knowledge, focus on their mutual constitution and finally shed some light on the historical contingency of norms, all to bring about new interpretations of norms and normativity (Engelkamp, Glaab, and Renner 2012, 116, 118). As an example, Grovogui’s study on the meaning of human rights contrasting the French, American and Haitian revolution offers three models of political subjectivity and their respective spheres of freedom based on their respective conceptions on what it means to be a human (Grovogui 2011, 48, 62). It turns out that the Haitian model of human person reveals a much more comprehensive understanding of freedom encompassing social and economic rights equivalent to civic and political rights. This demonstrates that

human rights have multiple genealogies, and it is possible, as often happens in the Global South, to imagine protected human rights as existing outside of Western norms, without negating the possibility of universalism or universality, which is the appeal of the concept of human rights (Grovogui 2011, 62).

Exactly this is what I demonstrate here in the remainder of this paper with Islam and religious freedom. By reconstructing marginalized Muslim voices on religious freedom I substantiate that genuine Islamic conceptualizations of religious freedom bring about new or alternative interpretations of the norm which

2 Next to the reconstruction of marginalized bodies of knowledge, Engelkamp, Glaab, and Renner (2012, 110–22) also propose two other strategies: i. de-naturalizing hegemonic bodies of knowledge and value systems through a critical approach to hegemonic discourses inspired by post-structuralism; and ii. an explicit reflection of one’s own perspective and normative predispositions as a researcher derived from auto-ethnographic studies.
smoothly fit with the principles of human rights. The overall aim is to paint a broader and much more comprehensive picture of Islam and IR and in particular Islam and religious freedom by revealing an alternative Islamic genealogy of universal religious freedom.

Pursuing this aim is particularly important because of the double marginalized character of reformist Muslim voices in IR: on the one hand, IR as a discipline and practice marginalizes religious (and thus Muslim) voices in general. On the other hand, the reformist voices of Islam which I reconstruct here are marginalized by popular traditional-conservative interpretations of Islam and Islamic law which are (politically) predominant in the Muslim world but argue poorly for religious freedom. This double marginalized character corresponds with at least three of the following obstacles reformist Muslim voices face:

These obstacles are not inherent in Islam itself but instead revolve around the overall context within which Islam and its reformist discourse find themselves. They include: the difficulty accessing various institutional means through which they can get their message across to intended audiences; an international environment that seriously undermines their message; opposition from traditional, orthodox religious establishment, and, opposition from the state (Kamrava 2006a, 22).

In cases where reformist Muslim voices face opposition not only from the traditional orthodox religious establishment but also by or in conjunction with the state because of some symbiotic relationship of religion and the state, their marginalization by popular interpretations of Islam is even worse and their reconstruction the more important. By challenging this predominant popular interpretation, reformist Muslim voices become critical, emancipatory voices. They are critical in the sense that they unveil the politicization and instrumentalization of Islam, question the dominant understanding of the Islamic sources, and critically re-read and re-interpret them. Thereby, they de-construct their own body of knowledge and ultimately seek to emancipate religion from both popular interpretations of Islam as well as the state for the sake of a truly free, voluntary, and individualistic belief in Islam.

In addition to this ‘domestic’ or ‘inner-Islamic’ marginalization, the international environment seriously undermines critical Muslim voices because religious voices in general are marginalized by IR as a discipline and practice. This is due to the fact that IR itself is a secular (biased) discipline. In line with the Enlightenment critique of religion, the ‘fetishisation’ of the Westphalian paradigm dictated a dominant secular narrative within IR (May et al. 2014, 332–6). From its very beginning, the secular was enshrined within the discipline, despite its Christian influences. Similar to conventional IR norm research, IR as a
discipline entails a Eurocentric predisposition and secular bias. In practice, this secular bias is easily observable in global governance. As Kayaoğlu convincingly demonstrated, Muslim voices of whatever color face the difficulty of an uneven playing field vis-à-vis their liberal/secular opponents either within international organizations like the UN or at supranational courts like the European Court of Human Rights (Kayaoğlu 2014a, 2014b). These practices reveal the limits of accommodating religion in IR (and the tendency to discriminate non-Western religious stances).

However, there is a need for a re-normativization of the public sphere by explicit religious normative stances, as the post-secularism debate claims: After secularization excluded religion from public discourse, modern society lost a vital moral source (Habermas 2005; Böckenförde 1976). Yet modernity ‘does have “a darker side,” ... one which religion can help to mollify through its spiritual nourishment’ (Kamrava 2006a, 19). By contributing to strengthen the public sphere of modern societies, public religions become desirable (Casanova 1994, 8). Quite similar to the emancipatory, critical impetus of contestation, and the critique of liberal scholarship with their taken-for-granted quality of liberal norms, the concept of post-secularism as a radical theorizing and critique prompted ‘the idea that values such as democracy, freedom, equality, inclusion, and justice may not necessarily be best pursued within an exclusively immanent secular framework’ (Mavelli and Petito 2012, 931). Consequently, post-secularism calls for an explicitly religious contribution to, and even conceptualization of, ‘liberal’ norms.

Exactly this is what reformist Muslim scholars do when they critically engage with their own marginalized body of knowledge and bring about an alternative genealogy of universal religious freedom through the prism of Islam: ‘Through renewed *ijtihad* (independent reasoning), and based on the correct principles of the Qur’an and the *hadith*, freedom of religion and belief can be achieved through Islam’ (Kadivar 2006, 120). The concept of *ijtihad* is key to their critical engagement. *Ijtihad* is a distinctive feature of Islamic law; it means independent reasoning based on the Qur’an and the *hadith*, calling on the jurist ‘to reach a solution or a rule (*hukm*) on a religious matter’ (Hallaq 1995, 179).3 While fundamentalists have a literalist interpretation of the sacred texts, reformists ‘embrace a dynamic and context-driven approach to *ijtihad*, calling for

3 For a brief overview on the conduct and the different types of *ijtihad* see Ramadan (2006, 78–81), and An-Na’im (2009, 154) for a critical plea to open the conduct of *ijtihad* to every Muslim believer.
interpreting the text based on changing and evolving circumstances. For the reformists, the “gates of *ijtihad*” remain wide open’ (Kamrava 2006a, 10). Thus, reformist Muslim scholars reject the idea of only one valid interpretation; in contrast they conceive of the Qur’an as a highly dynamic and progressive text which needs to be historically contextualized in order to be properly understood and implemented (Kamrava 2006a, 16). Similarly, as Alalwani argues, reflecting ‘on the Sunnah as that which clarifies, explicates and applies the Qur’an likewise requires *ijtihad*. This important process of exegesis is a means to acknowledge the world’s diversity in peoples and opinions over time, and to address important issues’ (Alalwani 2012, 6). Through the concept of *ijtihad* Muslims can localize, translate, appropriate or otherwise interpret the principles and the spirit of the Qur’an and the Prophetic tradition in line with changing historical, spatial and cultural contexts. As Kamali (2001, 6) maintains: ‘*Ijtihad* basically aims at finding feasible solutions to new issues which have not been specifically addressed by existing law’. With this renewed *ijtihad* that calls for the continuous, dynamic and historically contextualized interpretation of the divine principles of Islam, these critical voices actually take part in norm contestation processes:

All [reformist, critical; FB] thinkers emphasize the need to place the “unchangeable principles of Islam” within the appropriate historical context, from which a dynamic conception of the religion and its fundamental compatibility with political pluralism and what is today called “modernity” can be acquired. It is not Islam in itself that needs to be reformed, they maintain, but rather our understanding and our historical operationalization of it that needs changing (Kamrava 2006a, 25).

Next to this obvious similarity to what critical norm researchers conceive of norm contestation, it is consequential to conceive this specific kind of norm contestation as religious norm contestation since *ijtihad* is a genuine Islamic concept. By conceiving of *ijtihad* as religious norm contestation, critical Muslim voices meet the post-secular call for a religious contribution to or even conceptualization of ‘liberal’ norms in general, and religious freedom in particular. Thus, reconstructing religious voices is much more important if we consider the background of the post-secularism debate and the problems with and the need to accommodate religious voices in IR. In particular, the special feature of the double marginalized character of critical Muslim voices calls for their reconstruction for the sake of both a more comprehensive picture to be painted by IR with respect to Islam and human rights, and religious freedom in particular, and a truly free, voluntary, and individualistic belief in Islam.
Genuine Islamic Conceptualizations of Religious Freedom

The main problems of Islam and religious freedom are the issue of apostasy (and the connected issues of blasphemy, heresy, and hypocrisy), and the issue of scope (who is entitled to have religious freedom), that is, the issue of religious freedom for non-Muslims in Muslim-majority states and beyond. In what follows, I first sketch the main lines of the popular or traditional-conservative interpretation of Islam and religious freedom. Then, I turn to the new and critical voices of Islam that put this popular interpretation under scrutiny and come up with a genuine Islamic conceptualization of religious freedom which easily fits with universal religious freedom – as codified in international human rights law, in particular in Article 18 of the Universal Declaration of Human Rights, Article 18 of the International Covenant on Civil and Political Rights (ICCPR), and the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

The Popular Islamic Interpretation of Religious Freedom

Following Kadivar, the popular, or traditional-conservative interpretation of Islam is defined as the dominant understanding of the Qur’an and the sunna that is often found in the judgments and enunciations of religious scholars and the ulama, and has generally become accepted and practiced throughout the Muslim world, thereby shaping Muslim history and deed. This popular interpretation of Islam is often dominant in countries ruled over by Islamic governments (Kadivar 2006, 122).

4 Apostasy is by no means exclusive to Islam; it is also a controversial issue in other religions like Christianity and Judaism.
6 Prominent examples of states ruled by Islamic governments which follow this popular interpretation of Islam are Iran, Pakistan, Saudi Arabia, and Sudan – with respectively poor religious freedom records and high levels of discriminating religious minorities. However, there are also many Muslim-majority states which do not follow the popular interpretation of Islam and apply secular law. Some of them, like Mail, or Senegal, show good religious freedom records (Marshall 2008), others like Burkina Faso, Niger, or Sierra Leone do not discriminate religious minorities (Fox 2015, 161). For a discussion and overview of the empirical research on religious freedom and religious minorities as well as a case study on Iran see Badri (2018).
This popular interpretation of Islam generally differentiates three groups: Muslims, the People of the Book (Christians, Jews, Zoroastrians), and others with several restrictions for each of these groups regarding religious freedom.

In principle, Muslims are relatively free to practice their religion in line with the international human rights law understanding of religious freedom. However, the popular interpretation of Islam restricts their religious freedom in a variety of ways, in particular with regard to changing one’s religious belief, that is apostasy, as well as the connected issues of blasphemy, heresy, and hypocrisy (Kadivar 2006, 123–4; Saeed 2014, 7–8).

For Muslims, converting to a different religious belief like Christianity or renouncing religion at all, that is becoming an atheist, equals apostasy – a capital sin. The popular interpretation of Islam clearly urges severe worldly punishments with death sentence for male apostates (Kadivar 2006, 123–4). However, different schools of Islamic law have different standards, for instance, for the treatment of female apostates (ranging from death penalty to life imprisonment and forced labor), for the opportunity to repent, for the testimony of denouncing an apostate, or for how to deal with the apostasy of minors (Alalwani 2012, 14–6; Hasan 2013, 24). Moreover, there are less clear-cut standards for what qualifies as apostasy, apart from conversion from Islam (Saeed 2014, 9–10). For instance, a Muslim who casts doubt on the Prophet Muhammad or takes part in any other blasphemous act denying the righteousness of ‘the body of religious knowledge that has evolved through custom and tradition’ is considered an apostate and will be punished accordingly (Kadivar 2006, 124). But the classification of these blasphemous or dissident acts as apostasy again depends on the Islamic law schools. Because of these interconnections and fluid

7 To exemplify the complexity of the ‘crime’ of apostasy in Muslim-majority states which follow the dominant popular interpretation of Islam consider its implementation in Iran. In Iran law is bound to religious ‘affiliation’ or ‘denomination’, and therefore a change in religion consequently entails a change in status within the legal system. Note, however, that Muslims can change within denomination (madhab), moving from Shi’a Islam to Sunni Islam and vice versa, despite the fact that Sunni Islam is to a certain extent perceived as ‘less perfect’ and that the change in denomination has some legal and political consequences, such as the fact that you are no longer eligible to the presidency of the country, for example. In fact, the issue in Iran is even more complex if you consider that, paradoxically, the Iranian Penal Code does not address the issue of apostasy. Therefore, in theory, apostasy might be interpreted as not being forbidden by law. But what happens if a Muslim converts to another religion and someone denounces him formally, is that the judge is obliged to investigate the matter. As the Penal Code does not mention the issue, the judge can decide to refer directly to the so-called shari’a, and then decide that it is forbidden. But, again, this is not detailed in the Penal Code. For others than Muslims, it is possible to convert to Islam or to convert, for instance, from Judaism to Christianity.
intersections between apostasy, blasphemy, heresy and hypocrisy, these restrictions are mostly used interchangeably within the broader concept of apostasy which is, according to Saeed, ‘the most important in any discussion of religious freedom within the framework of Islamic law’ (Saeed 2014, 8).

Next to these restrictions on religious freedom for Muslims, the popular interpretation of Islam places much more restrictions on non-Muslims. Non-Muslims are divided into the People of the Book which include Christians, Jews, and Zoroastrians, on the one hand, and heathens or infidels, on the other. People of the Book who live in Muslim-majority states which follow the popular interpretation of Islam enjoy the dhimmi status which means they are a protected, recognized religious minority. They have to pay the jizyah tax and to accept their separate, second-class treatment under Islam to be tolerated, protected and to practice their religion individually and in groups (Kadivar 2006, 125; Fox 2008, 355). However, they do face several restrictions regarding their religious freedom. For instance, they may be granted permission to keep their places of worship, but they are not free to build new ones. They are not allowed to proselytize or to otherwise promote their religion and thus ‘to weaken the beliefs of Muslims’ (Kadivar 2006, 125). Of course, they are not allowed to criticize Islam or to do anything prohibited by Islam, although it is permissible in their own religion. As with changing one’s religion, they are free to convert to other recognized religions, that is Christianity, Judaism, Zoroastrianism, and of course, Islam which is ‘no doubt the natural choice’ (Kadivar 2006, 125). Converting to any other religion is punishable by death.8

All other non-Muslims, as well as those People of the Book who do not accept their dhimmi status and the above mentioned conditions under Islamic rule, are considered infidels and face jihad:

The struggle against them shall continue until or unless they accept Islam or are all killed. ... the non-Muslim who refuses to accept Islam or to abide by its preconditions for the People of the Book has forfeited the right to live, not to mention other civil rights, including the right of religion and belief (Kadivar 2006, 126).

In particular those religions emerging out of Islam – the so called ‘apostate religions’ or ‘heretical Muslim sects’ –, are among those ‘infidels’ who face the highest levels of discrimination and persecution in predominantly Muslim states like the Baha’i in Iran or the Ahmadis in Pakistan (Sarkissian, Fox, and Akbaba 2011, 440).

8 Note that both the historical treatment of non-Muslims as well as the actual application of all these restrictions vary considerably (Fox 2008, 55; Saeed 2014, 5–6; Talbi 2006, 112–3).
Both the issue of apostasy for Muslims as well as the limited scope of religious freedom for and the restrictions non-Muslims face are based on interpretations derived from the Qur’an and the hadith that apparently support these judgements. However, as Kadivar and many other reformist Islamic scholars contend, ‘these interpretations often fall significantly short of capturing the essence of the Holy Book or a particular Prophetic tradition and, in fact, often contradict them’ (Kadivar 2006, 120). The next section is devoted to get things straight.

New/Critical Voices

The Holy Qur’an

To be clear, the Qur’an condemns apostasy in very strict and unambiguous terms in several verses, but – and that is of utmost importance – without issuing any worldly punishment, not to mention death penalty. Indeed, some verses (like 2: 218, 3: 86–97, 4: 137) even speak of a natural death and against a death penalty for apostates (Saeed 2014, 11). In contrast, most verses only warn of the consequences on Judgement Day and speak of punishments for apostates in the hereafter like eternal damnation in hell (Kadivar 2006, 138–9). In the Qur’an, there is simply no evidence for a worldly punishment for apostasy.

Indeed, Alalwani (2012, 10) even identifies nearly two hundred and Saeed (2014, 11) almost one hundred Qur’anic verses that highly support religious freedom. Kadivar (2006, 132–40) groups these Qur’anic verses into seven categories.\(^9\) Out of these, five categories relate to the issue of apostasy, with two of them directly dealing with the issue of punishment. One group of verses prohibits the imposition of punishment on those who change their religion (7: 88, 7: 121–4, 40: 26), arguing that ‘people cannot be forced to convert from an unjust to a just religion in the same manner that they cannot be forced to convert from a religion that is considered just’ (Kadivar 2006, 136). The other group of verses (2: 216–7, 3: 85–90) prohibits the imposition of worldly punishments for apostates. Moreover, only those apostates will face the divine punishments in the afterlife who either ‘knowingly turn their back on Islam’, ‘abandon their faith in favor of worldly pleasures and pursuits’, or ‘through opportunism, Satanic pursuits, political corruption or the prospects of material gain’ (Kadivar 2006, 139). Those abandoning their faith through reason and logic, neither face any worldly nor divine

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*Note:* For a similar categorization with reference to blasphemy, apostasy and religious freedom see Hasan (2013).
punishments at all, but obviously won’t benefit from any divine grace or blessing. This actually is a strong argument for tolerating and respecting the right not to have a religion or belief which is, as a negative freedom, a substantial aspect of religious freedom (as set forth in (Western) political thought as well as all relevant international human rights law provisions, in particular in Article 1 (1) of the 1981 Declaration).

The other three groups of verses related to apostasy deal with prohibiting compulsion and the necessity of a free will and thus reveal more generally how religious freedom (at its fullest) can be achieved through Islam. Among them, the most prominent Qur’anic verse speaking in favor for religious freedom and thus against the ‘criminalization’ of apostasy reads:

No compulsion is there in religion. Rectitude has become clear from error. So whosoever disbelieves in idols and believes in God, has laid hold of the most firm handle, unbreaking; God is All-hearing, All-knowing (2: 256).

This verse, together with others (like 10: 99, 11: 28), prohibits compelling or forcing people to change their religion, either to Islam or to remain a Muslim. This freedom to choose necessarily entails ‘the freedom to enter into a religion, and also the freedom to leave it’ (Kadivar 2006, 132). Ultimately, it is derived from the free will God has given to all people. Referring to the very same verse (2: 256), Talbi even claims that ‘among all revealed texts, only the Qur’an stresses religious liberty in such a precise and unambiguous way. Faith, to be true and reliable faith, absolutely needs to be a free and voluntary act’ (Talbi 2006, 109). He further details that this verse originally ‘was aimed at reproving and condemning the attitude of some Jews and Christians who, being newly converted to Islam in Medina, were willing to convert their children with them to their new faith’ (Talbi 2006, 109; Hasan 2013, 10). Since faith is a genuine belief, it has to result from a free and voluntary act, and thus, it is consequently and absolutely a personal matter of commitment between the individual and God. Therefore, even parents should refrain from interfering with it. Although the background story to this verse would slightly contradict the parent’s right to ensure the religious and moral education of their children in conformity with their own convictions, as set forth in Article 18 (4) of the ICCPR and Article 5 (1–2) of the 1981 Declaration, it substantiates the free, voluntary and ultimately individual decision with respect to religious freedom and cautions not to simply overrule, force, or compel anyone and deprive one’s free choice.

The other two groups of verses both emphasize the worldly freedom in finding – and losing – the right path. Verses like 18: 29, 10: 108, 39: 41 and 27: 91–3 maintain that, although Islam is the right path, everyone has the free right to choose, to enter, or remain in Islam, but also to leave that path without
any worldly consequences. Similar to the aspect of the free will, reason and logic convincingly tell us that:

If there were only one path that everyone had to follow – the right path – then there would be no need for independent judgement, and for God’s rewarding of good and His punishment of evil. The principle of resurrection on the Day of Judgement would be meaningless without free will (Kadivar 2006, 134–5).

Additionally, verses like 88: 21–2, 50: 45, 25: 56–8, 13: 40, and 5: 99 claim that the Prophet only advocates Islam, spreads its message, and guides, but neither has the right to impose Islam on others nor to forcefully interfere with the religion of others, arguing that any judgements upon the religions of others is reserved to the Almighty, not the Prophet or anyone else (Kadivar 2006, 135–6).

The remaining two sets of verses Kadivar identifies deal more generally with the issue of scope, that is religious freedom for and the relations with non-Muslims. Among them, one group of verses (11: 118–9, 2: 113, 22: 17, 109: 1–5) emphasizes the divine acceptance of the plurality of religions and beliefs without sanctioning them in any worldly sense. Indeed, the verse entitled ‘The Unbelievers’ for Kadivar is outstanding and depicts ‘one of the most central proofs in support of freedom of religion and belief in Islam’ (Kadivar 2006, 137–8):

Say: “O unbelievers, I serve not what you serve and you are not serving what I serve, nor am I serving what you have served, neither are you serving what I serve. To you your religion, and to me my religion!” (109: 1–5).

In line with the former mentioned groups of verses which condemn compulsion and purport free will, there is neither room nor legitimacy for anything like a forced uniformity of religious belief (Kadivar 2006, 137). Although the Qur’an differentiates between the believers of the just and correct religion, that is, Islam, and unbelievers, basically all non-Muslims which do have various religions, beliefs or even disbelieve, it recognizes and tolerates this religious diversity. Indeed, as Saeed argues, this remarkable degree of tolerance is due to the fact that the Qur’an was revealed at a time of huge diversity in Arabia, with various different religious traditions, and that this diversity, as a matter of fact, will always exist (Saeed 2014, 1). In several verses (like 2: 62, 3: 84, 5: 69), the Qur’an even declares the divine origin of other faiths while mainly drawing upon the revealed religions Judaism and Christianity as complimentary and legitimate religions. Although other belief systems, in particular idol worship, are not recognized as legitimate, ‘the Quran urges Muslims to deal with all people, including idolaters, with respect, as long as they too show respect’ (Saeed 2014, 2). As a basic principle, all people are completely free to choose their belief and enjoy universal, that is, equal religious freedom.
Finally, the last group of verses (like 16: 125), Kadivar draws upon, invites others to join Islam, but only and explicitly in peaceful, compassionate, and conciliatory manners (Kadivar 2006, 139–40). With reference to verses like 34: 24, 39: 17–8, and 42: 10 Hasan (2013, 15–6) depicts the Qur’anic spirit to freely discuss and debate matters of faith in order to ‘enable people as free, moral agents to make informed choices about such matters’. Based on these verses, the Qur’an ultimately lays the foundation for its rich ‘tradition of free thought, debate and discussion’. The importance of these verses lies in the fact that they accept disagreement – within the Muslim community as well as with others like pagans –, and that the judgement (on right or wrong) is left to God alone. This idea of God’s final judgement and potential punishment in the hereafter, eventually, even allows mockery and other offensive behavior against God, the Prophet or the Qur’an – incidents which the popular interpretation of Islam clearly classifies as blasphemous acts. However, several verses (like 9: 64–6, 33: 56–8, 7: 199, 25: 63) as well as numerous hadith prescribe to respond to insults and provocation with forbearance and forgiveness, and that violations of sacred symbols ‘are not the business of worldly legislation and punishment’ (Hasan 2013, 14, 18–20).

In general, the Qur’an differentiates non-Muslims of whatever belief into those who coexist cooperatively, the partners in peace, and those hostile to the then emerging Muslim community (Saeed 2014, 4). For the former, even if they are pagans, Muslims have to fulfill their engagements with them (9: 4). For the latter, the Qur’an takes a somewhat hardline approach, as Saeed contends, ‘to strike these forces down wherever you find them’ (9: 5), no matter of which belief they were. But, verses like these have to be understood as political solutions to the vulnerability of the new and emerging Muslim state and the hostilities it was exposed to. Thus it is of utmost importance to consider that ‘the Quran made a very clear distinction between the political issue – recognition of state authority – and the non-Muslims’ religious beliefs, which should not be opposed with force’ (Saeed 2014, 5). Similarly, Hasan (2013, 13) contends that the often misquoted verse ‘Kill them wherever you find them’ (2: 191) is put out of context. It actually refers to pagan enemies and treacherous Muslims in wartime situations, an understanding which becomes clear from the preceding verse: ‘Fight, in the way of God, those who fight you but do not transgress: God does not love transgressors’ (2: 190). Even though hostilities had to be met with force as a matter of political authority, hostile non-Muslims should be free in their personal belief too.

To sum up, the relevant Qur’anic verses, although many severely condemn apostasy, reveal no solid support for any worldly punishment for apostates. And with respect to scope, there is no legitimate reason to restrict any rights and
religious freedom in particular to non-Muslims, be it People of the Book, other religions, unbelievers or atheists. Indeed, the groups of verses discussed above not only contradict the popular interpretation of Islam with respect to apostasy and non-Muslims, they even constitute a genuine Islamic foundation upon which religious freedom can be grounded and achieved.

The Prophetic Tradition, Deeds and Sayings

Let me now turn to the Prophetic tradition, deeds and sayings that apparently support the popular interpretation of Islam. With regard to apostasy, take, for instance, the hadith ‘Whoever changes his religion, kill him’. This hadith depicts the most prominent example of divine texts supporting the death penalty for apostates. At first sight, this and few other hadith contradict the above-mentioned groups of Qur’anic verses that depict a genuine Islamic foundation of universal religious freedom.

Because of the vital importance of hadith for the understanding of the Qur’an, the formation of Islam in general, and the development of Islamic law in particular (Bauer 2011, 145), some Muslim scholars argue that in contradictory cases like these, the hadith abrogates, that is, repeals the Qur’anic verses supporting religious freedom (Saeed 2014, 11).10 Apart from being just a minor position, the multitude of supportive Qur’anic verses for religious freedom cannot barely hold the abrogation argument convincing with very few opposing hadith (Saeed 2014, 11). In addition, only a Qur’anic verse can abrogate a hadith, not the other way around (Alalwani 2012, 13; Bauer 2011, 168). Moreover, for classical Muslim scholars, abrogation is seen as the very last option to resort to only if all other options are abandoned (Bauer 2011, 168). Instead, as Bauer (2011, 168–9) argues, there are at least two other options to deal with these contradictions: hadith-critique, and the simultaneous application of (apparently) contradictory references.

The two most authentic hadith collections in Sunni Islam are those of Bukhari and Muslim. Since the hadith “Whoever changes his religion, kill him” stems from the Bukhari collection, the popular interpretation of Islam considers it authentic. However, a professional hadith scholar would not be impressed by this fact alone, since it is not the collection as such which claims authenticity and reliability. Each single hadith has to be examined and scrutinized as a single case (Bauer 2011, 148) and approached with care and caution

10 Abrogation means that a later revealed Qur’anic verse can repeal an earlier one, with the very same logic applying to two hadith (Bauer 2011, 168).
(Saeed 2014, 12) due to their different quality of authenticity and reliability. Hadith science provides certain tools for hadith-critique, with specific criteria to review a hadith’s tradition. The most important criteria are its point of origin, the chain, quality, form, and breadth of narration, and its coherence (Bauer 2011, 149). Based on these criteria, hadith are categorized ranging from the most reliable (sahih) to the least reliable, that is, weak (daif) (Ismail and Mat 2016, 5). It is important to note that, quite similar to the concept of ijtihad, the ‘gates of tashih’ (the process of classifying hadith as saihih) remains open, and that the practice of hadith-critique with classifying certain degrees of likelihood can be resumed at any time (Bauer 2011, 151, 156).

In the case of the hadith ‘Whoever changes his religion, kill him’ there are several reasons to doubt its authenticity, especially with regard to the quality of its narrator, the chain and breadth of narration, and its coherence. The most well-known version of this hadith was narrated by Ikrima, a freed slave of Ibn Abbas who was a famous cousin of the Prophet (Saeed 2014, 13). Ikrima’s role as a trustworthy and reliable person can be questioned since some ‘notably senior scholars who were contemporaries of Ikrima considered him to be a liar’ (Saeed 2014, 13). Moreover, the breadth of narration only qualifies as ahad (solitary), ‘meaning that it was narrated by one person only’, and its chain of narration is only ‘classified as mursal (one with incomplete narration)’ (Ismail and Mat 2016, 6). Based on this hadith-critique (only with regard to the quality of its narrator, and the chain and breadth of narration), there is considerable evidence to doubt its authenticity. Additional evidence is provided by the fact that this hadith is not part of the equally important hadith collection of Muslim (Saeed 2014, 13). Therefore, considering this hadith as not authentic (like some traditionalist do) or at maximum as weak (daif), seems quite convincing and sufficient in order to not rely ‘upon as a solid authority in the light of general sanction for those leaving Islam’ (Ismail and Mat 2016, 6).

However, even if we consider it authentic, we can resolve its apparent inconsistency with the multitude of Qur’anic verses in favor of religious freedom by the simultaneous application of contradictory references. For classical Muslim scholars, as Bauer (2011, 169) argues, this is the ideal solution in cases where two references apparently contradict each other. Instead of simply ignoring or even abrogating a hadith or Qur’anic verse, one has to find ways to

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11 Note, however, that weak hadith were collected anyways, due to the fact that just because one hadith is very likely not authentic, it does not mean that it is inevitably not authentic (Bauer 2011, 150). This understanding of only declaring different degrees of likelihood rests on a theory of probabilities which is fundamental in hadith science. In fact, it is the fundamental principle of all disciplines in classical Qur’anic sciences – except Islamic theology.
reconcile their meanings in order to apply both. This can be done by assuming that one reference specifies (makhsus) the other. In the case of the hadith ‘Whoever changes his religion, kill him’ a specification (takhsis) succeeds with the help of another (controversial) hadith, certain Qur’anic verses, and, thus, if we consider the context on which the hadith in question refers to.

With regard to its meaning, the hadith itself is notably general and highly ambiguous: Taken literally, as Saeed contends, ‘anyone who converts from any religion can be killed ... even a Christian who converts to Islam’ (Saeed 2014, 12). Despite such absurd positions, there are literalist interpretations which conclude ‘that all converts from one religion to another must be killed, except for converts to Islam’ (Hasan 2013, 23). Those scholars who draw this extreme conclusions base their judgement on another (controversial) hadith narrated by Ibn Mas’ud which depicts the second most prominent example of divine texts supporting the death penalty for apostasy:

The blood of a Muslim may not be legally spilt other than in one of three [instances]: the married person who commits adultery; a life for a life [intentional murder; FB]; and one who forsakes his religion and abandons the community.

Although this hadith is included in both the collections of Bukhari and Muslim (Hasan 2013, 21), it only qualifies as ahad since it was narrated by one person only (Ismail and Mat 2016, 7). However, it sheds some light on the context and thus specifies the former hadith. While contemporary critical Muslim scholars would agree with the literalist position that the former hadith has to be understood in the light of the latter, they reject the extreme conclusion of criminalizing apostasy. Instead, contemporary critical Muslim scholars explicitly pay attention to the context it reveals. In their reading, the ‘abandonment of community’ places a condition of serious treason for any punishment to be applied in earlier times. In such ancient times, faith-allegiance often equated to political allegiance and therefore, leaving one’s faith was akin to political treason, especially in situations when different faith communities lived effectively in a state of war (Hasan 2013, 22). Similarly, Ismail and Mat state that the latter hadith ‘clearly mentions that the death penalty is imposed on the apostate who does not only leave the religion of Islam, but also departs from the Muslim community’ (Ismail and Mat 2016, 6). Correspondingly, they share the believe that the event behind the revelation of the hadith ‘Whoever changes his religion, kill him’ relates to the act of treason and rebellion, although no explicit explanation of the circumstances can be found with reasonable certainty (Ismail and Mat 2016, 6). They ground their interpretation of both hadith with several other hadith which are considered authentic and conclude:
Apostasy is a sin according to various verses in the Qur’an, and only two hadiths or verbal traditions made it a crime, particularly in the specific context of treason and rebellion. Certain historical events taking place during the lifetime of the Prophet and during the era of Abu Bakar [the first Caliph; FB] had obviously shown that fatal actions were taken in the specific context of rebellion or oppression that brought harm to the society and not merely for leaving Islam (Ismail and Mat 2016, 6–7).

Several Qur’anic verses substantiate this understanding. For instance, Hasan (2013, 23) purports that the hadith ‘Whoever changes his religion, kill him’ refers to ‘treacherous plots by non-Muslim enemies of Islam to pretend to convert to Islam and then leave the faith in the hope of persuading some believers to follow suit, as mentioned in the Qur’an (3: 72)’. Similarly, Alalwani (2012, 11–12) refers to specific Qur’anic verses (33: 60–2) which were revealed in order to end the ‘conspiracy against Islam’s internal front and attempts to rend it asunder’, depicting a ‘serious security situation’ in the tensions between the communities. In light of these Qur’anic verses, the apparent contradiction can be easily resolved and the coherence of these hadith with the multitude of Qur’anic verses supporting universal religious freedom can be restored without difficulty. Here, it is noteworthy to bear in mind the analogy to the Qur’anic distinction of political authority in wartime situations due to the vulnerability of the emerging Muslim state and the hostilities it was exposed to on the one hand (Saeed 2014, 4–5), and the personal religious freedom of Muslims and non-Muslims alike as an equal and universal right based on the free will God has given to all people and the free and voluntary act of (not) believing as an absolutely personal matter of commitment between the individual and God, on the other (Kadivar 2006, 132; Talbi 2006, 109).

At Home with Religious Freedom? Damn Right! An Alternative Genealogy

The discussion of Qur’anic verses as well as the Prophetic traditions, deeds, and sayings is far from being complete. Obviously, one could add and discuss many other Qur’anic verses in more detail; or elaborate much more on the Prophet’s actions and refer to the fact that the Prophet never did sentence anyone to death just for being an apostate; or complement the discussion with regard to the issue of scope referring to the different treaties the Prophet entered with the Jews (‘Constitution of Medina’), the agreement with Christians in Najran, or the peace treaty with the Quraysh in Mecca (‘Truce of Hudaybiyyah’); all in order to paint a much more comprehensive picture. But for the purpose of this paper, the conclusion would remain the same, that universal religious freedom is possible,
desirable and mandatory through the prism of Islam. This alternative Islamic genealogy smoothly fits with the principles of human rights and the international human rights law understanding of religious freedom.

The genuine Islamic conceptualization of religious freedom reconstructed here not only establishes the foundation for universal religious freedom as a positive right, but also provides the basis for a freedom from religion. As a negative right, it ensures the freedom not to have a religion or belief and thus also includes freedom of thought and conscience. The most extraordinary ‘finding’, however, is that the right to change one’s religion or belief is comprehensively enshrined by the free will God gave to all people. Moreover, it is considered as an individualistic right, free from any compulsion or interference from society or the state.\(^1\) To ensure a true and genuine belief, it is a matter of one’s own conscience, an absolute personal matter between the individual and God alone. With regard to scope, the Islamic conceptualization of religious freedom is clearly universal, that is, equal without differentiating between Muslims and non-Muslims. This is due to the divine acceptance of the plurality of religions and beliefs, and diversity in general. In fact, this is a strong argument for pluralism. Even mockery and blasphemy is to be tolerated as a freedom of thought and expression – freedoms necessary in order to enable people as free moral agents to make informed choices about their faith.

So, if the Qur’\(\text{a}n\) and the hadith are speaking in favor of religious freedom, why is the popular interpretation of Islam so inimical to religious freedom? At first sight, because basically all schools of Islamic law ‘have confused apostasy in the political sense with apostasy in the sense of a change in personal beliefs’ (Alalwani 2012, 13). Alalwani derives this confusion in Islamic jurisprudence from the huge variety of different scriptural groundings of apostasy. Indeed, for him ‘the differences among these schools over most details relating to this matter are clear evidence of the nonexistence of an explicit text that ... will support the claim that there is a divinely prescribed death penalty for apostasy’ (Alalwani 2012, 16). As one of the causes for this confusion, Alalwani presents an ‘overly broad concept of “religion” that encompasses the legal system and the

\(^{12}\) Maybe the only inconsistency with international human rights law can be seen in prohibiting parents to interfere with the free choice of their children’s belief, as set forth in Article 18 (4) of the ICCPR and Article 5 (1–2) of the 1981 Declaration. However, in the light of the dark painted picture of Islam and religious freedom with regard to apostasy and the issue of scope, this remaining inconsistency seems to be quite negligible, not to mention the fact that it can be easily resolved by contextualizing it to today’s circumstances. Moreover, one could even argue that this ‘inconsistency’ transcends the liberal understanding, or rather that this alternative understanding is even more ‘liberal’ paying special attention to the rationality of the individual. I owe this last thought to Stephan Engelkamp.
need to apply it to all citizens without regard for their differing beliefs’ (Alalwani 2012, 16–7). Although I strongly agree with him, the causes of this overly broad concept of religion are much more profound. They can be traced back to two interconnected phenomena Bauer identifies as the ‘theologization of Islam’, and the ‘Islamization of Islam’ (Bauer 2011, chapter 4, 6). Both these phenomena are part of a cultural process which Bauer describes as deviating from a culture of ‘tolerance of ambiguity’ towards a culture of (in certain aspects extreme) ‘intolerance of ambiguity’ (Bauer 2011, 15, 52–3). He defines cultural ambiguity as a the ability of a social group to simultaneously i. uphold two opposed or at least two or more competing, divergent meanings applying to the same term, social action, or object; ii. derive the meanings of norms for a certain area of social life from two or more competing or divergent discourses; iii. accept and acknowledge divergent interpretations of the very same phenomena, whereas none of these interpretations can claim exclusive validity (Bauer 2011, 27).

Ever since, the Islamic culture displayed high levels of tolerance of ambiguity. In dealing with the normative ambiguity of divine scriptures, the tolerance of ambiguity became the central characteristic of all disciplines in classical Qur’anic sciences which suspended the truth in favor of a theory of probabilities in which no interpretation could claim exclusive validity. In the course of the twentieth century, however, the Islamic culture was confronted with the Western modernity which was (and still is) extremely hostile and intolerant towards ambiguity. Being confronted with the supremacy of the West, its ‘dis-ambiguing’ rationalization process, and its demand for normative unambiguousness, some Islamic scholars tried to keep up with the West and triggered a process of ‘recreating Islam’ as an ideology based on Western normative-structural elements (Bauer 2011, 35, 52). By adopting these ideological elements, the well-established and cultivated culture of tolerance of ambiguity lost ground and deviated towards a culture of intolerance of ambiguity.

As a result, the theologization of Islam began. Within Qur’anic sciences (‘ulum al-Qur’an), Islamic theology (kalam) never existed on an equal footing with Islamic jurisprudence (fiqh), hadith science (‘ulum al- hadith), the discipline of Qur’anic readings (‘ilm al-qira’at) as well as linguistic, aesthetic and historic approaches. However, this plurality of classical approaches towards the religion of Islam lost its ground and paved the way for the theologization of Islam. Unlike all other disciplines, Islamic theology necessarily draws on certain knowledge (‘ilm yaqini) or definitive knowledge (‘ilm qat’i) in contrast to hypothetical knowledge (‘ilm zanni). Accordingly, the theory of probabilities in which no interpretation could claim exclusive validity lost its ground and paved the way for claiming the absolute and exclusive truth of one valid interpretation. Finally, the theologization of Islam fundamentally changed Islam (Bauer 2011, chapter 5).
While the theologization of Islam was an active reaction of certain (Salafi) Muslim scholars to the Western-modern demand for normative unambiguousness, the Islamization of Islam was (and is) not. The Islamization of Islam is the result of an active process by Western scholars, politicians, and the media in painting a distorted picture of Islam which perfectly fits into the colonial discourse. This distorted picture of an ‘Islamic Islam’ (Bauer 2011, 222) equates the rich and diverse culture of Islam with the religion of Islam. Thus, the modern West actively constructs a monolithic Islamic-religious culture with an Islamic-religious identity, trapped in an Islamic-religious discourse in which the most conservative and orthodox position is considered the norm – thereby ignoring the variety of other religious positions and the multitude of non-religious discourses which follow their own distinctive normative structures and rules, with all its ambiguities and diverse interpretations (Bauer 2011, chapter 6).

The problem with this sort of extreme intolerance of ambiguity is that it directs our attention to the question of who is entitled to have the legitimacy and authority to interpret – if just one interpretation is considered valid. Ambiguity provides a lot of room for Muslim jurists ‘to interpret texts in specific ways or to restrict their scope of meaning’ (Saeed 2014, 12) – and that is a powerful position, one which is even more powerful if it is exercised in conjunction by religious and state authorities and which eventually resulted in the dominance of the popular interpretation of Islam shaping the realities of Muslim societies. Indeed, the concept of textual ambiguity has been a – if not the – central component in the development of Islamic law with Muslim jurists favoring certain texts over others, clarifying ambiguous meanings or substantiating a particular meaning out of more general texts either by specification or reconciliation of meanings. However, the suspension of truth allowed them to ‘tame’ ambiguity, not to eradicate it (Bauer 2011, 57, 124). The ‘Islamic legal tradition provides tools to deal with textual ambiguity, and some contemporary Muslim scholars argue that we need to develop and apply these ideas further. This is an area where contemporary Muslim scholars have much to contribute’ (Saeed 2014, 12) – like Kadivar and many others do when they argue for a renewed *ijtihad*.

While over the course of the last two centuries Muslim jurists established the body of knowledge now considered the popular interpretation of Islam as the dominant understanding, reformist and critical contemporary Muslim scholars need to de-/reconstruct this body of knowledge in order to re-contextualize and revive the ambiguity of meanings for the sake of a more comprehensive (and normalized) picture to be painted by Islam and religious freedom. Ultimately, what I reconstructed here is the result of religious norm contestation of critical contemporary Muslim scholars. Thus, it is just one out of many possible meanings and interpretations, but it is one worth reconstructing
and spreading in raising the hope that it will get to the hearts and minds of the Muslim world and beyond.

**Conclusion**

The overall aim of this paper was threefold: First, to connect critical norm research and post-secular approaches with reformist Islamic thought by conceptualizing *ijtihad* as religious norm contestation. Second, to unveil the double marginalized character of critical Muslim voices in IR as both, marginalized by popular interpretations of Islam and marginalized in discipline and practice of IR. And third, to paint a broader and much more comprehensive picture of Islam and IR and in particular Islam and religious freedom by revealing an alternative genealogy of religious freedom. By reconstructing marginalized Muslim voices on religious freedom, I demonstrate that this Islamic genealogy of religious freedom brings about an alternative and contextualized interpretation of the norm that smoothly fits with the principles of human rights. As a truly universal, equal and individualistic norm conceptualization, religious freedom is possible, desirable and mandatory through the prism of Islam. As such, it not only contradicts the popular interpretation of Islam; it also withdraws any legitimate reasons for Islamic or Muslim-majority states to restrict religious freedom for Muslims and non-Muslims alike; to criminalize apostasy (and the connected issues of blasphemy, heresy, and hypocrisy); to argue with ‘religious stability’ in the right to change one’s religion debate; or to restrict free speech in the defamation of religion campaign. Indeed, the genuine Islamic conceptualization of religious freedom reconstructed here exposes these arguments either as a confused interpretation of Islam, or as disguised authoritarian identity politics, or as both.

From a normative, emancipatory perspective, the relevance of this undertaking lies in the twofold deconstruction of the popular interpretation of Islam regarding religious freedom, the unveiling of the theologization as well as the Islamization of Islam as its underlying socio-cultural processes, and the manifold opposition critical Muslim scholars face combined with the overall lack of institutionalized ways through which they can spread their message. Pursuing this deconstructive strategy, unmasking the distorted and revealing a much more normalized picture of Islam therefore is of utmost importance – for IR in general and for the Western perspective on and understanding of Islam in particular. However, Islam and religious freedom only serve as proxies and illustrative examples of IR’s biases. The core problem of IR’s ignorance
regarding non-Western perspectives in general and religious voices in particular still prevails. Nevertheless, the undertaking of critical Muslim scholars in re-contextualizing and re-interpreting the meaning of religious freedom through *ijtihad* serves as an excellent example for how to conduct norm contestation. Maybe IR as a whole can learn something from this critical Muslim undertaking. In deconstructing and contextualizing the Islamic body of knowledge and reconstructing critical Muslim voices, a genuine Islamic conceptualization of religious freedom appears much more ‘liberal’ to international human rights law and familiar to Western political theory and history of ideas.

Indeed, it would be tempting to compare the efforts made by critical Muslim scholars with Western-canonical thinkers such as John Locke and ‘surprisingly’ display the multitude in common ground and similarities in each line of argumentation. But instead, I want to let these voices speak for themselves. However, such a comparison may be a fruitful undertaking for further research for three reasons. First, it could reveal the similarities in grounding religious freedom as an individualistic right due to a matter of one’s own conscience between the individual and God. As such, it thus may reduce the perceived divide the cultural relativism debate manifested in between Western and non-Western human rights conceptualizations. Second, comparing the similarities in the religious groundings of the institutional separation of religion and state depicts another fruitful point of departure for further research. Meanwhile a considerable research strand is developing within critical reformist Islamic scholars who employ a deliberately religious rationale to advocate the separation of religion from the state, but not from politics (exemplarily Ghobadzadeh 2015). This special sort of a genuine Islamic mode of secularism may contribute and further enrich the post-secularism debate – and thus complete the corresponding picture to the genuine Islamic conceptualization of religious freedom. Third, it would be inspiring to compare the difficulties Western thinkers faced in setting up their interpretations and thoughts regarding religious freedom and secularism as convincing and viable alternatives to become the dominant and, ultimately, mainstream liberal position. This may help to identify venues, channels and institutional means through which critical Muslim voices can spread their message and institutionalize religious norm contestation. In putting aside the pilgrim’s myth, Gill already demonstrated that the rise of religious freedom in the West ‘is not merely the result of a good idea’ (Gill 2013, 108, 114) but of political incentives and interests. Building on Gill’s arguments, Koenig (2014) further elaborates on why it lasted until the end of the nineteenth and beginning of the twentieth century, more than hundred years after its constitutional codification in the first amendment, to fully institutionalize religious freedom as an enforceable right in US law. For him, a discursive struggle over the autonomy of
law schools paved the way for a legal disestablishment in which Christianity as an integral part of common law and the Christian nation narrative lost ground.

Maybe critical Muslim voices can learn something from this (darker) episode of the West—as well as from Islam’s own long-lasting episode in which the tolerance of ambiguity was celebrated. Indeed, Bauer (2011, 187) even argues that reviving the suspension of truth may be a viable approach to democratize Islamic law. I am sure and convinced that the West can also learn a lot from Islam in this regard. In fact, some critical norm researches like Engelkamp and Glaab (2015) already call for celebrating normative ambiguity as a source of dialogue within IR norm research. Bearing in mind the diversity and plurality of normative orders in the global context, this may be an excellent point of departure for considering international relations as ‘inter-cultural relations’ (Wiener 2014, 3) to bring about more understanding and legitimacy in global governance.

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