American Political Science Review (2025) 119, 3, 1159–1172
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Justice Beyond Rights: *Haqq* and Global South Migration

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How might the ideas and practices of Global South migrants and activists inform normative frameworks and conceptual repertoires that political theorists and activists bring to bear on questions regarding justice and migration? Taking seriously the call for conceptual innovation to move beyond Eurocentrism this article builds on oral histories collected from refugees and migrants from the Tribal Areas of Pakistan to argue that the concept of haqq *raises important questions about the reliance on statist justice in contemporary theorizing about migration ethics and provides insights into alternative ethical concerns. Ideas and practices of* haqq *foreground social relationships as well as the imbrication of responsibility and entitlement for communities and individuals. Crucially, engagement with* haqq *helps dislodge assumptions regarding state-enforced rights as universal vehicles of justice. Consequently, different ethical questions and imaginaries become available for consideration that resonate much beyond debates about migration.*

INTRODUCTION

How might the experiences and ideas of Global South migrants and refugees inform and shape normative frameworks and conceptual repertoires that political theorists bring to bear on questions regarding migration and justice? As Song (2018, 399) has rightly noted, political theorists have, so far, not engaged with the normative and conceptual questions raised by immigration within Global South contexts, and need to do so, not least because this is where most migrants and refugees are absorbed.[1] More importantly, as a consequence of this inattention, the voices of Global South refugees and migrants remain unheard, their ideas and conceptual frameworks obscured, and the value of these for rethinking contemporary concerns unexplored. The dominant concern among political theorists has been with refining arguments for and against migration into rich, liberal democratic nation-states, assumed sometime explicitly but often implicitly, to be North American and Western European ones (Fine and Ypi 2016; Miller 2016; Song 2018). Critical and liberal theorists alike have relied heavily upon a statist vision of justice by calling for state-enforced legal rights as the primary vehicles of justice for migrants and refugees. Ethical questions addressed by scholars of migration are then structured around the state's right to exclude. Many are sympathetic to the plight of Global South refugees and migrants, often framing the discussion under the rubric of global justice but have remained concerned primarily with Euro-American contexts and have sought to address injustice through the expansion of the rights that states can extend to refugees and migrants (e.g., Amighetti and Nuti 2016; Benhabib 2004). Even for those who argue for open borders or contest the state's right to restrict immigration in particular situations (Abizadeh 2008; Gerver 2021; Kukathas 2012; 2021; Longo 2018) the state remains the privileged interlocutor. In any case, their proposal could be enhanced through engagement with actually existing non-statist practices and ideas from the Global South. Building here upon a burgeoning body of scholarship on decolonial and critical migration ethics (Bulley 2024; Cole 2020a; 2020b; Fine 2020; Finlayson 2020; Jaggar 2020; Reed-Sandoval 2016) that is beginning to articulate growing concerns about the pervasive statism in theorizing migration, and responding to their call for developing and deepening alternative conceptions, I discuss here the concept and practice of *haqq* to highlight a vision of justice that moves beyond the state. This is an initial exploration of what I call non-statist justice with the intention of stimulating debate about alternatives ethical questions and visions of justice that carry implications for as well as beyond migration ethics.

Building upon oral histories collected from primarily working class and peasant refugees and migrants in Pakistan, I outline a conception of justice (*insāf*), that relies on the concept and practices of *haqq*. I define *haqq* as a set of practices and ideas that structure the provision of justice by foregrounding social relationships, rather than state enforcement, and a deep entwining of obligations and entitlements held simultaneously by collectives and individuals, all linked directly to an assertion of truth. Engaging seriously with *haqq*, especially its differences from state-enforced rights, allows us to expand

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Received: July 25, 2023; revised: February 28, 2024; accepted: June 24, 2024. First published online: September 27, 2024.

[1] Contrary to popular perceptions in Europe and North America, the majority of migrants and refugees are absorbed within the Global South. Between 2000 and 2022, Asia received the highest numbers of migrants globally (World Migration Report 2022, UN International Organization for Migration, https://worldmigrationreport.iom.int/wmr-2022-interactive/) and in terms of refugees specifically, more than 76% are absorbed in low and middle-income countries (UNHCR United Nations Refugee Agency).

https://doi.org/10.1017/S0003055424000972 Published online by Cambridge University Press

the conceptual repertoire available for understanding the dynamics of justice that foreground societal engagement, and also recognize the statism built into Eurocentric visions of justice. The intention here is not to elaborate upon a "pious accusation" (Cheah 2006, 47) of Eurocentricity but to indicate substantive conceptual gains to be made from meaningful engagement with Global South ideas to think through alternatives. I propose approaching *haqq* as both a set of contextual, socially embedded *practices* that are nevertheless relevant for a third of the global population, as well as a *concept* that can be utilized more generally to denote non-statist visions of justice. Taking seriously Mills (2008) call for conceptual innovation to move beyond Eurocentric and racist philosophy I suggest that the concept of *haqq* simultaneously reveals the statism of Eurocentric conceptions of justice and allows an insight into actually existing norms and practices of non-statist justice. While I explore the dynamics of *haqq* here through a focus on migration, the implications of *haqq* are, of course, much wider.

The centrality of rights that states can or should extend to migrants and refugees in debates about the ethics of migration is linked to underlying assumptions about the universality of statist right as instruments of justice. For instance, while Benhabib (2004, 93, 140–3) recognizes that there might be differences in value commitments in different parts of the world, she proposes a distinction between a "specific schedule of rights" and the "principle of rights" to present the principle of rights as universal while the schedule is open to variation across cultures. By so doing she aims to preserve the claim of universality of state-enforced rights. The preference for statist rights as putatively universal vehicles of dispensing justice in society is closely linked to European experiences of state-building that are baked into visions of progress, and which political theorists continue to draw upon. Thoughtful studies of the imbrication of liberal, as well as critical political theory, with colonialism and Eurocentricity (Allen 2016; Arneil 1996; Bardawil 2018; Bhambra 2021; Mehta 1999; Parekh 1995; Scott 2010), have alerted us to the colonial hubris and racialized ideas embedded within. Presented as universal, these normative frameworks and conceptual repertoires arose from very particular histories and as responses to specific political problems (Chakrabarty 2000; Simon 2020). In relation to justice, these Euro-American contexts have mandated a more positive relationship with the state and statist justice than in the Global South.

This relationship with state-enforced rights plays an important role in the Euro-American imagination of progress, which as Allen (2016) has persuasively argued functions both as a moral and political "imperative" driving political action, as well as a historical "fact," in Eurocentric theorizing. In her careful analysis of the implications of postcolonial and decolonial theory for critical political theory Allen (2016, xiv) recognizes that not considering seriously the limits of Eurocentric visions of progress and failing to engage with "the compelling articulation and theorization of contemporary struggles of the meaning, limits, and failures of decolonization" renders such theorizing irrelevant to the concerns of many. But, I suggest here, that is not all. The loss is not just in terms of a lack of relevance but, perhaps even more importantly, of a truncated imagination of alternatives. However, expanding our horizon of alternatives requires the willingness to question our own normative and conceptual apparatus deeply. In the first instance, it requires an active engagement with differences rather than commonalities and a hesitation in translating rather than smoothing over possible dissonance. To do this well demands what the postcolonial theorist Scott (2012, 3) has called "*unlearning* the presumptive privilege of one's own moral-intellectual traditions, and…, *learning* something of the internal composition of questions and answers through which the relevant traditions of others have been historically shaped." At stake here is not a commitment to moral relativism, but a serious and questioning engagement with other visions of pasts and futures, *as well as* one's own. This openness to questioning is "best captured by the language of *dislocation* rather than *detachment*" (Euben 2006, 28). Euben's formulation is particularly helpful because it makes obvious that such an engagement does not entail cultivating indifference or giving up considered judgment.

Nowhere is the foundational but troubling role of a Eurocentric vision of progress and statist justice more clearly on display than in debates about Muslim and tribal societies. In mainstream media these societies have been presented as paradigmatically primordial and non-modern, therefore in need of intervention and reform. Many thoughtful scholars have raised questions about such representations of Muslims (Euben 1996; Mamdani 2004). However, the impact of these representations is insidious. Even those who reject overt marginalization do not consider ideas and practices from Muslim or tribal sources as resources that might enable us to reimagine connected, transnational, and just futures. Contesting precisely such assumptions, I focus here on Pakistan as an important and particularly generative site for considering issues related to migrants and refugees. The country has, since the 1980s, hosted one of the largest and longest running refugee populations in the world, from 4.5 million Afghan refugees recorded by the UNHCR in 1990s to an estimated 3 million still in Pakistan today.[2] From 2008, there was a dramatic rise also in internal refugees or Internally Displaced Persons (IDPs). The US-led NATO attack on Afghanistan in 2001 led to another era of instability in the region, with the war spilling over into Pakistan and creating a wave of internal refugees from parts of Pakistan adjoining Afghanistan that are known as the Tribal Areas. Citing reports of militant

[2] ""They Left us Without Any Support": Afghans in Pakistan Waiting for Solutions," *Refugees International*, Report, July 2023 (https://www.refugeesinternational.org/reports-briefs/they-left-us-without-any-support-afghans-in-pakistan-waiting-for-solutions/) accessed September 5, 2024.

https://doi.org/10.1017/S0003055424000972 Published online by Cambridge University Press

activities in the Tribal Areas, the Pakistani military carried out various operations ostensibly to remove these militants. Yet, many of the militant groups were also supported by the Pakistani intelligence services, as well as by American, Indian, and other agencies. The ensuing chaos and lawlessness led to the exodus of approximately 3 to 5 million "tribals,"[3] most intensively between 2008 and 2017.

My research focused on these displaced persons, and my interlocutors referred to themselves as *muhajir*, a term that does not distinguish between migrants and refugees. While the vast majority had left their homes due to the war, there was significant variation in the conditions and urgency under which they had been forced to migrate. Most were citizens of the country, but many were Afghan refugees who had been living in tribal areas having crossed a border many do not recognize as legitimate. In any case, even those labeled IDPs were not fully acknowledged as Pakistani citizens. The postcolonial state had continued with the colonial administrative structure of separate legal and political regimes. Colonial-era laws, called the Frontier Crimes Regulations, were only repealed in 2018 and carried dire consequences for locals, including legally sanctioned group punishment for individual crimes. This colonial history of legal, social, and political separation from the rest of Pakistan has meant that the residents of the tribal areas are perceived not just by urban Pakistanis but also by themselves as inhabiting a liminal place inside the official borders but separate from Pakistan (Iqtidar 2023; Mahmud 2010; Tanguay-Renaud 2009). The consequences of this imagined distance between tribal and urban Pakistanis were dramatic in times of war as tribal lives were seen as expendable by decision-makers. Tribals were subjected to US drone attacks and Pakistani army operations from 2004 to 2018[4] but without official acknowledgment by either government for the first few years. Successive American governments justified these drone attacks as lamentable but necessary measures in the face of an intractable and distant population. However, contrary to official claims, drone attacks were immensely costly in terms of civilian deaths. The Bureau of Investigate Journalism noted in its "Naming the Dead" project that only 704 of an estimated 2,379 killed by US drone strikes in Pakistan could be named and of those, 322 are reportedly civilians of which 99 are children, and 295 are alleged militants; 87 are classified as unknown.[5]

Tribal Areas residents have for long articulated their concerns in various regional, national, and international fora including the International Court of Justice. However, few have considered in detail their conceptions of justice. Bringing together their voices with wider understandings of *haqq* in the Islamic tradition as well as South Asian movements of resistance across religious divisions, I highlight this alternative vision of justice by building on oral histories collected from tribal refugees and migrants in the urban centers of Lahore and Islamabad over a period of 6 years. Participants were approached through snowballing techniques. Initial contact was made through local networks and free clinics. The 82 oral histories recorded represented a spread across the tribal groups. Of these, 21 interlocutors were women. Interviews were conducted primarily in Urdu and Pashto.[6] My engagement with some interlocutors spanned many meetings over the years, and here I have tended to draw upon those in more detail. Given the precarious position of many of my interlocutors and based on individual requests I have anonymized following standard methodological procedures.

Oral histories allow a possible alternative to the methodological and epistemological biases that have so far limited engagement with alternative ethical questions and concerns regarding migration in philosophy. Methodological limitations are beginning to receive considerable attention from philosophers of migration ethics (Cole 2020a; 2020b; Fine 2019; 2020; Finlayson 2020; Jaggar 2020, 100–2; Reed-Sandoval 2016) as well as other political theorists (Ackerly et al. 2021; Herzog and Zacka 2017). I contend here that oral histories present a complicated but rewarding methodological option for political theorists. The radical potential inherent in centering marginalized peoples and taking seriously their life experiences and ideational commitments requires careful engagement due to difficulty in developing insights generated by oral histories without either drowning in minutiae or disregarding the particularities (Abrams 2010; Portelli 2010). Oral histories can also present unstable accounts of actual events as a narrator's own recollection might shift with time, interviewer, and other audiences. Some have suggested that oral history might be helpfully approached as a tool of self-fashioning for the narrator (Scott 1991). These limitations do not impact my use of oral histories here as my interest lies in exploring conceptual resources and normative commitments rather than establishing historical sequence. Unlike the relatively neat, but sometimes limited, narratives contained in texts, oral histories are uniquely valuable guides to the ideas available to and shaped by subaltern groups. As such oral histories present an important methodological option for political theorists.

The next section details the ways in which my interlocutors spoke of *haqq*. I emphasize the rich set of connotations and associations that some commentators

[3] This is the term my interlocutors use, calling themselves tribals (*qabailī*). Colonial distinctions between "tribal" and "settled" communities in the region have been internalized over successive generations.

[4] For a detailed report, see "Living Under Drones: Death, Injury and Trauma to Civilians from US Drone Practices in Pakistan," International Human Rights and Conflict Resolution Clinic (Stanford Law School) and Global Justice Clinic (NYU School of Law), September 2012.

[5] "Naming the Dead: Visualised," *Bureau of Investigative Journalism*, October 26, 2014 (https://www.thebureauinvestigates.com/stories/2014-10-26/naming-the-dead-visualised).

[6] I am grateful to Noor Akbar and Dr. Ammara Maqsood for their assistance in carrying out some of the interviews. Interviews carried out in Pashto were translated into English by Noor Akbar.

https://doi.org/10.1017/S0003055424000972 Published online by Cambridge University Press

have flattened in their attempts to present *haqq* as the equivalent of liberal rights. Instead, I show that while *haqq* can be used to speak of statist rights, it also moves beyond to present a capacious society-centric vision of justice. State-enforced rights are often seen as universal vehicles of justice due to the ubiquity of the state as an institution, while contextually embedded practices such as those associated with *haqq* are approached as local and particular. To address these assumptions the next section discusses the relationship between colonialism and statist rights to argue that the supposed universality of rights is, at best, highly fragile when looked at through the lens of decolonial and anti-imperial scholarship on rights as well as migration. The concluding section explores alternative ethical questions regarding migration that become available to us when we engage with the role of responsibility and obligation through our understanding of *haqq* and actually existing non-statist justice.

HAQQ: SOCIALLY EMBEDDED JUSTICE

In discussions about their experiences of war, migration, and marginalization my interlocutors relied heavily on the concept and practices of *haqq* to claim justice (*insāf*). While the concept holds an important place in discussions about justice in the Islamic tradition it has also found wide circulation across religious and linguistic traditions from North Africa to the Middle East to South and South-East Asia (Arbab 2019; Geertz 1983; Kamali 1993; Madhok 2021; Rosen 2000). For instance, Geertz (1983, 187–98) presents *haqq* as having wide currency from Morrocco to Malaysia as part of a wider Islamic legal *oikumene* overlapping in parts with Arabic and Indic norms. The region covers more than a third of the world's population. Thus, while I focus on the discussions in Pakistan, it is important to recognize that ideas and practices of *haqq* enjoy wide circulation much beyond the country and already structures visions of justice for billions.

Haqq has often been translated straightforwardly as right by influential scholars of Islamic thought (e.g., An-Na'im 1990, 161–81). The interest in such cases is in presenting *haqq* as similar to, indeed as an uncomplicated twin of, statist liberal rights. Recent scholarship has moved beyond the impulse to accord liberal framings such primacy. In a nuanced analysis, Madhok (2021) has rightly presented *haqq* as a central concept to engage with "vernacular rights culture" of human rights. She argues for sidestepping questions of origins and circulation of human rights to focus on "conceptual descriptions of rights talk in different contexts" (67). Moreover, she recognizes the different justificatory premises of *haqq* which mean that such visions of rights are "in the final instance, non-derivative from the state" (183) and produce radically different subjectivities. Nevertheless, even as she recognizes these differences her primary interest is in exploring the potential of *haqq* as "rights culture." She focuses on how *haqq* has been utilized by grass roots mobilizations to wrest statist legislation or policy provision in favor of the marginalized and is less directly invested in parsing out those uses of *haqq* that bypass the state altogether. Building upon and extending Madhok's contribution I note that ideas and practices of *haqq* predate and exceed the human rights regime. I am interested much more centrally with detailing the ways in which *haqq* was and remains "non-derivative from the state," as well as the implications of that for engaging with alternative visions of justice. I also discuss in some depth the range of associations in Islamic thought which allow practices of *haqq* wider circulation beyond the South Asian context.

I start here by noting some of the ways in which *haqq* was used by my interlocutors as they spoke of the discrimination they faced as "tribal" migrants to underscore the differences from liberal conceptions of rights. In large part due to the conflation of tribal with terrorist in mainstream international and national media, these *muhajirs* faced challenges ranging from difficulty in obtaining accommodation and jobs, to being unable to register as voters. Many complained of police harassment. A tribal student made an oft-repeated complaint, "we are the Blacks [referring to African Americans] of Pakistan. If there are raids on [university] hostels to check for drugs and weapons, tribal boys are picked up first… If there is any violence in the city, all tribal men are open game for the police to label terrorists."[7] This particular interview was conducted before the death of Naqeebullah Mehsud in 2018, which became a source of widespread political mobilizations across Pakistan. Mehsud, a 27 years old aspiring model and shopkeeper, was picked up by Karachi police, labeled an Islamist militant and killed in a staged "encounter" on January 13, 2018.[8] Soon afterward, a movement led by young tribal activists called the *Pashtun Tahafuz Movement* (Movement for the Protection of Pashtuns) swept through the urban centers of Pakistan highlighting the vulnerability associated with tribal and Pashtun identity. While the state moved swiftly to curtail the movement by arresting its leaders and members, it led to significant debate and acknowledgment of their concerns with the Pakistani public sphere. Media attention has remained focused on this movement of young, urban Pashtuns that sought to wrest citizenship rights from the state.[9] It is, however, also important to pay attention to the pervasive notions of justice not captured in this reporting.

It is very difficult to convey experiences of war and migration to those who have never lived through either. When I asked Haleem Khan, one of my first interlocutors, about his experience of moving to Lahore and how his new neighbors had acted toward him and his family, he explained that he had escaped a war zone, from a war

[7] Jamshed Daud, Lahore, September 21, 2015.
[8] "Police Killing of Naqeebullah Mehsud Angers Pakistanis," *Al-Jazeera*, January 19, 2018. (https://www.aljazeera.com/news/2018/1/19/police-killing-of-naqeebullah-mehsud-angers-pakistanis).
[9] "Why Is Pakistan's Pashtun Movement Under Attack," *Al-Jazeera*, January 28, 2020. (https://www.aljazeera.com/news/2020/1/28/why-is-pakistans-pashtun-movement-under-attack).

https://doi.org/10.1017/S0003055424000972 Published online by Cambridge University Press

that the state of Pakistan did not officially acknowledge and few in urban Lahore had a clear sense of.

> How can we explain our lives to our neighbours here in Lahore? It is so different that… [he shrugged]. The first time that we heard the drones we all ran to the *khandaq* [bunkers] with our children and our animals, and spent the whole day sitting in there. But when it came back the next day and the next and just stood there, what could we do? We can't spend all this time in the bunker. We then left our children and animals in the bunkers and went back to our fields. I can't tell you what it feels like to have that thing hovering in the sky above you.[10]

Haleem Khan was one of the first people I met when I started this research. When he narrated his experience, I was unsure if drones really did hover in sight of the villagers. It is now known that the US government did use hovering as a tool of psychological terror.[11] Such tactics were justified by reference to the remote location and archaic norms of tribals, rendering their lives beyond what Butler (2010, 13–23) calls "grievability." Framed as primitives and terrorists they were presented as legitimate targets of violence. Called at that time, "the most dangerous place in the world"[12] the tribal areas were represented in mainstream international media through the tropes of rugged mountains, inaccessible villages, rough men, oppressed women, and extreme violence combined with excessive hospitality. Ignoring a long history of circular migration as far afield as Australia (Nichols 2006, 110–4; 140–75) the tribal regions were viewed within urban Pakistan and internationally as if existing outside history, global flows of finance and transnational migration, and the tribal people as primitives with access to modern weapons. Perceptions within urban Pakistan's liberal intelligentsia were critical. As one of my tribal interlocutors pointed out, "I used to not tell people [in my college] that I am from Miranshah (Waziristan) because they had not heard of it, and I had to explain. But after the war started, I did not say where I am from because they had only one association with it… of terrorism."[13] Such was the sense of distance from tribal lives for some that a section of Pakistani liberal civil society groups also championed the use of military action[14] arguing that this is the most efficient way of dealing with this obdurate population.

In the face of such marginalization and discrimination, I was surprised to hear Haleem Khan say, "it was the *haqq* of our neighbours in Lahore to ask about the war we had just experienced." Others I interviewed expressed similar ideas. Gul Bibi, who lost her husband and a granddaughter to aerial and ground attacks, by the Pakistani army and a militant group respectively, said in a similar vein, "we were refugees. It was the *haqq* of the people in Lahore to look after us. If they failed to do it properly that is their loss ultimately. We try to fulfill our *haqq* to them at least when we can."[15] She implied that it was a loss for her neighbors both in their inability to recognize the truth of the war, as well as the possibility of ethical development through dispensing their responsibilities toward marginalized refugees. She went on to say, "many helped us but many created problems for us, even when it was their *haqq* to ask us and try to understand why we had undertaken *hijrat* (migration)." In claiming that she and her family had dispensed with their *haqq* as refugees toward her new neighbors Gil Bibi pointed toward the contribution she had made in times of marriages and mourning (*gham khadi*) in the neighborhood, for instance by opening her family's meager living spaces to the guests of her neighbors. In building such webs of obligation and entitlement Gul Bibi and other refugees asserted their own agency, and yet again this use of *haqq* exceeds easy translation: these refugees cannot be seen as suggesting that looking after them and trying to understand their plight was the *right* of their new neighbors in Lahore.

Many of their neighbors did recognize the relationship of ethical duty and responsibility that having refugees in their midst placed on them. Such understandings of *haqq* have come to the fore again since November 2023 when the Pakistani state instigated a crackdown on the approximately 1.7 million Afghan refugees without valid authorizations. An estimated 450,000 were forcibly repatriated by January 2024. The state has not responded to pressure by various social and political groups calling for the renunciation of this decision. However, local groups, neighbors, and co-workers hid refugees in their homes, rented homes for them in their own names, and organized food deliveries during police crackdowns.[16] One such Pakistani citizen who organized for his Afghan friends to stay with his family in another part of the city during a police crackdown said, "I don't know if I have properly fulfilled my *haqq* to them, that is for them to judge, but I did what I could."[17] Here Abdullah Ahmed spoke of his *haqq* or duty to the refugees.

Similarly, after recounting the difficulties that made them leave their homes, the trials they faced on the way to their present locations, the problems of finding livelihood in cities, many of my tribal interlocutors said, "all we want is *aman* (peace) and *insāf* (justice). This is our *haqq* but also the *haqq* of the state/government

[10] Haleem Khan, Lahore, March 22, 2013.
[11] "Deadly Pilotless Aircrafts That Have Helped Fuel Anti-American Sentiment," *The Guardian*, November 24, 2008 (https://www.theguardian.com/world/2008/nov/24/drone-aircraft-pakistan-al-qaida).
[12] Zahid Hussain, "Pakistan's Most Dangerous Place," *The Wilson Quarterly*, Winter 2012, 36/1:16.
[13] Zaigham, Islamabad, March 1, 2013.
[14] Open Letter available at "Civil Society and North Waziristan Operation," *The Tribune*, June 23, 2014 (www.tribune.com.pk/story/725448/civil-society-the-north-waziristan-operation/). See also Muhammed Idrees Ahmed, "Gunboats and Gurkhas in the American Imperium," *Al-Jazeera*, July 14, 2011 (http://www.aljazeera.com/indepth/opinion/2011/07/20117145247361110.html).
[15] Gul Bibi, Lahore, September 20, 2015.
[16] See Zehra Munir, "Expulsion from Pakistan Makes Afghan Refugees a Political Football Once More," *Financial Times*, January 18, 2024.
[17] Abdullah Ahmed, Lahore, December 14, 2023.

https://doi.org/10.1017/S0003055424000972 Published online by Cambridge University Press

(*hakumat*).” Again, this denotes something more than our understanding of statist rights can fully capture. Were the refugees proposing that it was the right of the state to provide peace and justice? Gul Bibi, who emerged as formidable neighborhood organizer over the years that I got to know her, explained in some detail, “we say in my village that rulers change, subjects do not. For us, there is little difference between government by the British or by Pakistan. Our conditions are the same. But the Pakistani rulers have to ask themselves, have they managed their *haqq*? It was their *haqq* that we should be better off in Pakistan than under colonial rule, because we have fulfilled our *haqq* to them.”[18] In emphasizing the relational aspects of *haqq* between the refugees and Pakistani rulers Gul Bibi is claiming equal moral footing for herself and her community. At the very least, these statements signal a complex interplay of obligations and entitlements bound up in an ethical framework.

Moreover, refugees across the age, class, and gender spectrum were defiant and consistent in the assertation that “we are on *haqq*, and therefore, we have nothing to fear.” Here the term *haqq* is being used to refer to truth or reality. This association with truth plays an important role in producing a subjectivity very different from statist rights claims. Within the wider Islamic philosophical and juridical tradition, truth and justice have a close and mutually reinforcing relationship (Hallaq 2009, 95, 144; Khadduri 1984, 70–87). While my interlocutors did not refer to juridical debates, this close relationship with truth was an important element of their understanding of *haqq*. These associations between *haqq* and truth as lived experience of marginalization were further popularized by anticolonial activists such as those involved with the non-violent Khudai Khidmatgar movement in the region. *Haqq* as truth had pervaded Khudai Khidmatgar discourse (Arbab 2019, 204, 206). This takes on particular significance once we realize the importance of nonviolent resistance in undermining the legitimacy of the state’s use of violence and promoting a vision of social change based on principles of friendship as Arbab (2019, 203–215) has convincingly argued.

For Abdul Ghaffar Khan (1890–1988), a prominent anti-colonial activist and leader of the non-violent *Khudai Khidmatgar* movement in parts of colonial India that included the tribal areas,[19] just politics required a foregrounding of individual responsibility to society. The implications of mobilizations that built on the language of *haqq* as truth were that the mostly peasant members of the *Khudai Khidmatgars* were drawn into a thick language of anticolonial resistance, individual responsibility, and social solidarity (Banerjee 2000). Two decades later another wave of mobilizations among peasants in the region was carried out by the *Mazdoor Kissan Party* (Worker and Peasant Party). Its leader Major Ishaq framed the struggle for land rights in terms of a battle for *haqq*, and another leader, Sibghatullah was remembered as *haqiqat pasand* or truth seeker (Ali and Raza 2022, 495–6).

This imbrication of truth and justice in *haqq* raises some concerns for those schooled in statist justice. A reified vision of European historical experience informs such considerations where long-running wars of religion are believed to be linked inextricably to the assertion of monopoly over truth by Protestant and Catholic sovereigns. This has led to significant suspicion regarding invocations of truth given authoritarian uses. We can, however, start by recognizing the historical parochiality of the reasons for this discomfort, and, more critically, acknowledging a key difference with invocations of *haqq*: *haqq* is primarily socially established and in the Islamic tradition the state has historically not been associated with adjudicating *haqq*. That is to say, there is an important difference between the imposition of a monarch or state’s version of the truth and its invocation by those seeking to resist marginalization. Being able to speak of their experiences, recount their realities and claim their histories as truth has long been a strategy of resistance by subaltern groups (Scott 2010; Trouillot 1995). Such visions of the truth are inherently dialogical and socially embedded.

Finally, many, particularly students and youth, demanded, “are we not citizens of Pakistan? Do we not have the *haqq* to have proper roads and schools built in our areas?” At a public event in London pointing toward the Pakistani state’s complicity in US drone strikes in the Tribal Areas, Noor Behram, a journalist from Wazirabad asked, “are we not citizens of Pakistan? Do we not have the *haqq* to be safe in our homes?”[20] Such statements suggest the more familiar political claims made by citizens of their state. Clearly, claims from the state can also be included within *haqq*. But as the discussion above indicates to think about *haqq* only as a local term for statist legal rights would be to miss the wide range of associations that allow us an insight into another vision of justice.

I want to emphasize the difficulty of parsing the different elements of *haqq* out and the importance of approaching these as mutually constitutive rather than easily separable strands. Even from these brief examples, it is possible to appreciate the range of associations and the complexity that *haqq* incorporates. First, *haqq* carries at least four different meanings: truth; social responsibility or duty; social entitlement; and political claim. Second, it is not primarily associated with the individual. Third, and somewhat counterintuitively *haqq* seems to belong to both the oppressed and the oppressor as well as others watching an injustice unfold. It is not only associated with the victims or claimants of an entitlement. This diffused ownership is in part related to the deep association with truth that *haqq* carries connecting it conceptually to an understanding that justice flows

[18] Gul Bibi, Lahore, April 5, 2015.

[19] The movement was particularly important from the late 1920s to the 1940s, and while the larger framing was Islamic, it had many Sikh and Hindu members.

[20] Public Event “Perspectives on Killings By Drones,” King’s College London, March 5, 2014.

https://doi.org/10.1017/S0003055424000972 Published online by Cambridge University Press

from acknowledgement of a reality, which oppressors as well as bystanders are seen to be capable of undertaking. The oppressor in this framing is, thus, never beyond persuasion, and the bystander has important ethical responsibilities.

In Islamic juridical thought and practice discussions about *haqq* are further refined by the distinction between *haquq Allah* and *haquq al 'ibad.* These are often roughly translated as the rights of God and the rights of individuals. But the right of God is a surprising idea: who can dispense justice to God? There is scholarly consensus that *haquq Allah* captures those interests that serve the public well-being including public order and social harmony while *haquq al 'ibad* refers to the obligations and dues toward an individual (Kamali 1993, 350–1; Moosa 2000, 192). While there is debate about how best to dispense *haquq Allah* the general principle that these are aimed toward public good is widely accepted. Emon (2006) has rightly argued that the line between *haquq al 'ibad* and *haquq Allah* was not and could not be conclusively drawn. Separating social and individual good is often difficult and sometimes impossible. Emon suggests that they are a conceptual heuristic that early Islamic jurists had developed, and consequent debate within the Islamic legal tradition has centered on multiple conceptions of the relationship between the good and the right, individual and community. One important implication of this lack of delineation, not entirely unintended by the jurists, was that this fostered a more socially embedded notion of justice. The very instability of the two categories and the difficulty of demarcating individual and public good conclusively is generative.

The explicitly acknowledged interest in keeping both communal and individual concerns at the forefront renders *haqq* and related vision of justice to be more easily embedded in society. Attention to this social embeddedness is revealed in the explicitly stated reminder jurists set for themselves and their audiences that individual and community rights are linked and that both need to be balanced. The emphasis on the balance between individual and social concerns has been noted not just by historians of Islamic political ideas (Darling 2002; Hallaq 2009, 159–221) but also by anthropologists of contemporary Muslim societies from across Africa and Middle East to South and South-East Asia (Agrama 2016; Geertz 1983, 181–220; Rosen 2000). Moreover, Hallaq (2009, 171) points out that the historical record suggests that these socially embedded, and thus accessible, norms of justice meant that "social underdogs" often initiated and won litigation in *sharia* courts. These resonances carry on today and may go some way toward explaining the continued appeal of *sharia* for contemporary Muslims. It is crucial here to remind ourselves that *sharia* has operated historically, and continues in large part today, primarily as a self-imposed set of guidelines to be interpreted according to specific situations rather than state-imposed laws unlike the European experience of centralized and statist church (Hallaq 2014).

In explicitly foregrounding social relationships, as Rosen (2000, 6) notes in the case of contemporary Arab world, a "sense of mutual ingratiation and indebtedness is broadly subsumed…. under the central Arabic concept of *haqq.*" This emphasis on mutual indebtedness is seen by some scholars as linked to the weight placed on duty or responsibility in Islamic visions of justice. Indeed, in the orientalist tradition, some scholars argued that Islam only recognizes obligations (Schacht 1970, 540–1), implying a contrast to the emphasis on rights as entitlements in the European tradition. On the other side, some Muslim modernists claimed that the Islamic tradition presented greater clarity about the reciprocity of rights and obligations than European legal norms (Brohi 1978, 179–81). The subtext in these conversations has been an assertion and rebuttal of the claim about the simultaneously unique and universal place of Europe in facilitating progress through the invention of a distinctive tool of governance that is political rights. The shift from duties to rights is a part of this narrative of progress that is deeply significant for contemporary political theory more generally and debates about migration specifically. Duties have, by and large, become associated with restrictions, such that by the late twentieth century, Raz (1989, 6) noted in his critical assessment of rights, the dominant view of rights allowed that these confer benefits on people while duties act as "fetters and restrict people's ability to do as they wish."

Without minimizing the value of rights and entitlements, it is perhaps important to remind ourselves to appreciate the foundational role that duties play. There is a long-running debate about the practical value of establishing a direct correspondence between rights and duties in Euro-American philosophy (Waldron 1987). In Islamic debates, and in some contradiction with Brohi's claims regarding the clarity of the relationship between rights and duties, there is a blurred and overlapping relationship. Kamali (1993, 357) notes in his detailed review of scholarship on *haqq* that an important feature of Islamic juridical debates is that "right and duty merge into justice so much so that they become, in principle, an extension of one another" without either eliminating or emphasizing the duality between the two. Similarly, noting the widespread use of such notions in contemporary North African countries, Rosen (2000, 156) argues that translating *haqq* as either right or duty misses the wide range and subtle uses it allows otherwise.

Noteworthy in these debates about *haqq* in the Islamic tradition, as well as its use by my tribal interlocutors, is the relative absence of the state in defining and enforcing it. This does not conclusively preclude a role for the state. Nor does it prevent questioning of power arrangements and hierarchies. However, very clearly the sites for claims and persuasion are other individuals and social groups. This aspect, in particular, has been deployed and extended beyond juridical and philosophical debates by activists and marginalized communities across religious traditions within the South Asian context. *Haqq* speaks to multiple situations and a distinctive feature is the combined focus on collective and individual, moral and political, that local activists, from landless Christian peasants in

https://doi.org/10.1017/S0003055424000972 Published online by Cambridge University Press

Pakistan to laboring Hindu women in India put to use against large corporations, military encroachments, and statist marginalization (Madhok 2021, 100–44; Rizvi 2019, 81–98).

The multiple registers that *haqq* can operate upon were mobilized by these activists to highlight their own agency. For my interlocutors, the ability to influence the behavior of their neighbors, co-workers, and others through invocations of *haqq* and practices of mutual obligations were important and meaningful. In calling for their own and the *haqq* of others in Lahore refugees and migrants engaged different groups. Over the years of my interaction with Haleem Khan, for instance, I saw him and my other interlocutors making a space for themselves within their new contexts. Their sense of agency was often heightened through the deployment of *haqq* as they sought to build local alliances, form collective responses and engage in specific concerns by creating relationships of mutual dependency. Some like Haleem Khan helped form a neighborhood association of small traders in the area he lived and worked in, and in the process educated his Lahore neighbors about the war he had fled. Others mobilized with Punjabi colleagues to expand spaces in local schools for refugee children. Many spoke of the collective pool they had created for arranging burial in tribal areas of those who died away from their *watan* (homeland). Sending dead bodies from the city to the tribal areas was expensive, and for accompanying relatives dangerous in those years. However, recognizing it as the *haqq* of the dead, the living saw it as an assertion of their own agency.

No doubt all of this was also exhausting, and most of my interlocutors would have preferred not to have to do this work of persuasion and collaboration to assert their *haqq*. However, grounding their justifications in truth, seeing themselves as agents of justice, and persuading others to collaborate with them created a subjectivity that far exceeds statist legality and relationships of dependence. Their visions of *haqq* created space for persuasion in multiple registers and emboldened them to engage with others as equal moral agents. This is not dissimilar to the role that *haqq* seems to have played for non-Muslim Dalit (lower caste) women mobilizers against rape in India, where Madhok (2021, 135) notes truth as a justificatory premise "enables an existential and structural critique of the life of marginalized gendered subjects while also shoring up an ideal of justice in social and political life." In moving beyond statist legality and indicating a space for a relationship of moral equality *haqq* enabled refugees and migrants to enter life in new contexts as agents. It is important to note that my interlocutors were keenly aware of power dynamics within society, particularly class and ethnic distinctions in their new contexts. Several articulated a version of the sentiment expressed by Asad Afridi when he said, "our main 'fault' is that we are poor, this society is not for the poor…In the city it is like living in a hotel, you have to pay for everything and if you can't, you can starve."[21] Their reliance on *haqq* was not predicated on romanticized visions of society as an organic whole in opposition to the state. Rather they saw social and ethical practices of *haqq* as providing them with a viable and valuable means for influencing just outcomes.

In contrast to the insistent focus on social and ethical relationships facilitated by *haqq*, the dominant trend in contemporary migration ethics debates is to engage with the state as the naturalized container of society. However, as Kukathas (2012, 664) reminds us, societies "precede, and generally survive states and other forms of political organization." More importantly, Kukathas (2021) has rightly warned that immigration controls change social norms and potentially narrow the space for oppositional politics *within* the nation-state. Controls at the border form only one part of a complex web that includes the monitoring of places of work and employment, romantic relationships, and educational careers, as well as continuous disruption through raids and deportations (Kukathas 2021, chap. 3). Indeed, the border today cannot be understood as a thin line depicted on maps, but as a system of surveillance and management that begins in other countries and today relies increasingly on mass electronic monitoring (Longo 2018). It is hard to refute the claim that today "the only feasible way of monitoring would-be immigrants is to monitor and control the local population" (Kukathas 2021, 5). With border controls seen in this light the questions raised through considering the concept of *haqq*, about the naturalness and universality of the nation-state and the focus on entitlements only, take on new urgency, and I turn now to these by considering the relationship between colonialism and statist rights.

COLONIALISM AND THE UNIVERSALITY OF STATIST RIGHTS

Political theory debates about justice tend to rest primarily on the possibility and scope of rights that can be afforded by states. In the case of migration, the ethical question addressed then has been focused on the receiving state's right to exclude, even by those who argue for open borders. Such a framing of the ethical question can mean that "Anglo-American philosophers implicitly situate themselves as policy makers within wealthy states facing a problem of uninvited intruders" (Jaggar 2020, 106). Often this position is occupied without recognizing the fact that these are the very states that take far fewer refugees than their Global South counterparts despite their proclaimed role in drawing up the international refugee law regime. This leads to a situation where "we have an international political system accustomed to tolerating the 'under-supply of asylum' from countries nominally supporting the refugee law regime" (Fine 2020, 13). Colonial legacies of forced migration and racialization, alongside neocolonial legacies of economic extraction, support for dictatorships, and passing on of environmental costs to the Global South leading to natural disasters are beginning to receive attention from those

[21] Taxila, February 7, 2014.

https://doi.org/10.1017/S0003055424000972 Published online by Cambridge University Press

concerned with migration ethics (Amighetti and Nuti 2016; Cole 2020b; Fine 2020; Finlayson 2020; Jaggar 2020; Reed-Sandoval 2016; Valdez 2021). There is an emerging consensus that these dynamics impact not just migration patterns but crucially the framing of the ethical question at stake. It is the framing, the ready acceptance of statist rights as universal vehicle of justice that my interlocutors' ideas raise fundamental questions about. This questioning of the state as the sovereign enforcer of rights is not premised on libertarian assumptions about individual freedom but is instead tied deeply to collective and individual considerations about truth and responsibility.

A burgeoning body of research by decolonial, anticolonial, and postcolonial scholars has started raising important concerns about statist rights as primary vehicles of justice. For indigenous North Americans colonialism is an ongoing reality and many have pointed out the paradox of demanding rights from what is to them an ongoing occupying, colonial state (Taiaiake 2021). The concerns that Marx had about the legitimization of theft and dispossession under the framework of primitive accumulation remain central to the concerns of many, particularly indigenous populations (Nichols 2018). Indigenous activists ask: what protection can statist rights provide when the colonizer and occupier is also the guarantor of those rights? At the very least, the colonial history of rights complicates their seemingly straightforward association with progress and justice that most Euro-American theorists rely upon to build a picture of steady expansion of rights to those previously excluded from their exercise.

For many, rights are "colonial modes of recognition" that rely upon legal personhood to accept the humanity of colonized and racialized groups (Rawson and Mansfield 2018, 115–6). Due to these associations, those who may now be recognized as full rights-bearing individuals continue to have a fractured relationship with them. Referring to the experience of African American women, for instance, Bonnie Honig notes perceptively that the vision of new segments of population coming into full possession of formal rights, "does not also note that these subjects have still never come to bear those rights in the same way as their original bearers" (Honig 2006, 112). The relationship of many such populations with statist rights is fraught in large part due to the realization that recognition of their humanity is dependent upon statist logics that are largely outside of their influence. Given colonial histories of equating humanity with legal personhood and dehumanization through withholding of rights, for some, this raises the grave concern that the more we approach "humanity as a juridical status, the more dehumanization is possible" (Esmeir 2006, 1549–50). In the case of migrants the disenfranchisement of many alongside the enfranchisement of some, particularly through racialized divisions, has left traces that continue to shape debates (Valdez 2021).

This historical experience raises profound questions about the presumed universality of statist rights. For the colonized, the rupture between pre-colonial norms and colonial legal structures was intense, and critically, empowered selectively while using the language of universal access. Statist rights were often imposed by colonial regimes, and while this created opportunities for some, others were marginalized in profound ways. For instance, as a result of colonial legal changes, the property rights of the wife were pitted against the rights of the sister in matrilineal contexts of South India where women were the primary inheritors of property. In the interest of standardized statist rights and in accordance with British social norms colonial legal regimes ultimately skewed inheritance rights in the interest of men. Based on these and other examples, the feminist theorist Nivedita Menon (2004, 8–9) has suggested that the language of rights clearly "empowered some subaltern sections against indigenous elites, but contrary to the claim of this language to universality, was not unambiguously emancipatory for all. Indeed, it had devastating consequences for many subaltern sections which were drastically marginalized and disciplined by the operation of modern codes of identity and governance." Menon's argument cautions in approaching statist rights as universal vehicles of justice and seeking resolution to political concerns through state-enforced laws alone.

While some see human rights as having the potential to move beyond such colonial histories there are important limitations to consider here too. In the first instance, human right enforcement remains dependent upon states. Second, there are important questions about the role played by human rights regime in diverting political energies away from other utopias proposed by revolutionary struggles in the then recently decolonized states of the Global South and continued patterns of paternalistic universalism in the architecture of the human rights regime set up in the shadow of empire and racism (Moyn 2010). In later work, Moyn (2018) traces the development of theories of global justice in Anglo-American political philosophy against the backdrop of decolonization as well as the New International Economic Order, and the increasing orientation of the field toward a rights-based approach. This, he suggests, oriented the field away from a focus on structures of persistent inequality to providing justice to "deserving individuals" through legal minimums without engaging deeply with structural analyses (Moyn 2018, 159). More egregiously for many, the institutionalization of corporate property rights and the internationalization of human rights are parallel, historically contemporary moves that have entrenched dispossession at the same time as promising greater freedom and equality. For some activists and scholars like D'Souza (2018, 69) the move by some activists to constrain the IMF and global corporations through a recourse to human rights is deeply ironic because, "the more legal 'persons' (corporations and economic actors) are required to behave like natural person, to respect and comply with 'human' rights responsibilities, the greater is the acceptance, recognition, and reification of the hypostatised legal 'person' as an equal of the natural person." In this context, while corporations claim rights at par with natural persons, they have many more resources at their disposal than individuals.

https://doi.org/10.1017/S0003055424000972 Published online by Cambridge University Press

For Global South activists like D'Souza (2018, 71) the implication is clear: "the struggle against capitalism is the struggle against imperialism and its ideology of rights." Others are concerned to delineate the precise relationship between human rights and market fundamentalism or neoliberalism moving beyond historical correlation. For Moyn (2018, 216) a key concern about human rights is that "that they are unambitious in theory and ineffectual in practice in the face of market fundamentalism's success." The dramatic downsizing of ambition and relatedly, a methodological focus on the individual meant that human rights could not offer meaningful resistance to sharply increasing inequality within a neoliberal framework. Thus, when philosophers framed debates about the privatization of public resources and institutions in terms of rights of one group against another, some worried that this "will yield us at best a flimsy defence of the right conclusions for the wrong reasons, and at worst an ideological smokescreen for a perverse and damaging system" (Finlayson 2020, 128). The dominance of abstracted and statist visions of justice in debates about global justice as well as migration, means that there is at times a profound disconnect between the political and philosophical modes of thinking, such that it is possible to get away with deeply racist assertions regarding who is allowed to enter a state and on what conditions (Finlayson 2020).

The occlusions associated with statist rights are linked quite profoundly to the abstraction of politics as an autonomous sphere of human life, hived off from social and embodied life that tends to define philosophical approaches. Such an abstraction of politics brings at least two key problems when we consider rights. First, the distance from social life might render statist rights meaningless for precisely those individuals and groups who rights are meant to support (Nielson 2000). Not only might they not see those rights as addressing their substantive concerns, but the process of accessing those rights might create significant challenges for them. Second, and central to my argument here, this abstraction and distance from social life, strengthens the legitimacy and control of the state. Reducing the inherent richness of human interaction and obscuring the force that moral economies of relationships play, the reification of the politico-juridical sphere leads to strengthening the role of state institutions in managing social life. In the context of gender liberation, this gives rise, for Wendy Brown, to a profound paradox regarding statist legal rights. First, echoing Marxist concerns regarding rights she wants us to recall that historically, "rights almost always serve as a mitigation—not a resolution—of subordinating powers" (Brown 2000, 231). Then she lays out the paradox in the context of gender justice "the more highly specified are rights as rights for women, the more likely they are to build that fence around us at that site, regulating rather than challenging the conditions within" and yet, the more abstract they are the more they are likely to benefit dominant members of society, in this case, men (231–2). That is, statist rights can also end up reinforcing unjust hierarchies quite profoundly.

My argument here builds upon but goes beyond recognizing the paradoxical role of rights to questioning the association of universal provision of justice, within and across states, through statist rights that contemporary political theorists of migration continue to rely upon. The lack of a relationship with the state among the *muhajirs* I interacted with is not as unusual as political theorists are primed to believe. The sudden and somewhat contingent rise of the nation-state as a political institution in the twentieth century is beginning to receive some attention among historians and historical sociologists (Li and Hicks 2016; Wimmer and Feinstein 2010). Burbank and Cooper (2010, 1) reminded readers a decade ago that "the world of nation-states we take for granted is barely sixty years old." Rather than taking the nation-state as a given and a relationship with it as a universal, it is worth pausing to think about both its very recent appearance and variegated relationship with it across the globe. While ideas about nation-states have existed for two centuries the actual rise in this institutional form is a twentieth-century phenomenon, its peak coinciding with decolonization in the middle of the twentieth century. The irony here is that many anticolonial thinkers and movements were, for different reasons, deeply suspicious of states as well as nations, concerned about the colonial legacies embedded in statist legal structures and proposed a variety of political units other than the nation-state (Fanon [1963] 2004; Mantena 2012; Mehta 2010; Harper 2020; Iqtidar 2021). Yet "successful" decolonization was recognized through the formation of a nation-state as the inheritor of colonial administration, a process facilitated by international agencies like the United Nations and departing colonial powers (Mazower 2009).

Of particular relevance to questions of migration is the process through which borders delineating many of these states were drawn to reflect colonial interests and power games. Tribes, ethnic groups and sometimes even villages were divided callously. Like many others around the Global South, *muhajirs* from tribal areas of Pakistan continue to live through precisely that colonial legacy and reject the border drawn between Pakistan and Afghanistan. By accepting and reinforcing the nation-state's legitimacy as the most viable container of society and consequently self-determination, theorists of migration have underplayed questions about whether states can be vehicles of justice especially given concerns about the legacy of colonialism in the order of sovereign states. For these and related reasons, an anticolonial perspective needs "to dethrone the bounded territorial sovereign state as the primary site of collective self-determination" (Lu 2019, 270). Indeed, for many of the *muhajirs* I engaged with the state was an active obstacle to their existing norms and institutions of collective self-determination, and the border cutting across family and other associative relationships, an imposition. As part of this self-determination they explicitly acknowledged duties as an expression of their agency, and I turn now toward the place of obligations in thinking about alternative visions of justice.

https://doi.org/10.1017/S0003055424000972 Published online by Cambridge University Press

RESPONSIBILITY AND AGENCY

Decolonial and anticolonial scholarship on rights has highlighted not just colonial imperatives baked into statist justice but the epistemic erasure of alternatives. As decolonial scholars engage more deeply with historically marginalized traditions of thought, an important, yet relatively underacknowledged, theme can be discerned: the centrality of collective and individual responsibility/duty in facilitating justice in contrast to the emphasis on individual entitlements in statist rights. *Haqq* too underscores obligation, and approaches concerns regarding non-normative individuals and social groups through the development of an ethic of responsibility.

Drawing upon the Sikh tradition, Sokhi-Bulley (2023, 2) pushes us to imagine a politics of solidarity with "strangers," including racialized immigrants, moving "both beside and beyond the confines of legal rights" by centering *hukam*, and the related ethic of service and obligation. In her reading *hukam* foregrounds duty as part of a cosmological orientation that mandates friendship with the stranger, in terms of sharing the political and social burden that the stranger carries. For Sokhi-Bulley *hukam* as a way of life imbued with this ethic of service (*seva*) pushes its members to speak to their duty toward and entitlement of the stranger, be they racialized refugees or caste outsiders, "as opposed to the collective," as the normative (Sokhi-Bulley 2023, 7). *Haqq* demonstrates similar plasticity and is open to addressing different substantive concerns. It has been mobilized in recent years by queer activists and migrant women to highlight both their own agency and the responsibility of those around them through collectives such as *Halal and Queer* (*Haq)* and *Apna Haq* that seek to change social norms. While there is often significant suspicion regarding concepts associated with religious traditions, it is useful to remind ourselves that in the last century, egregious harm to the marginalized has been wrought through statist impositions of truncated versions of *sharia*, while orientalist conceptions of static Muslim communal norms continue to inform much legal debate including in predominantly Muslim countries.

The centrality of responsibility in alternative epistemologies is more readily accessible in a different body of scholarship that is beginning to coalesce into a debate about the Rights of Nature among scholars concerned with environmental justice. Some have argued for assigning legal personhood and rights to the environment in the hope that such rights would protect the environment, and indigenous peoples. Scholars resisting this move claim that in practice assigning legal rights to nature has led to an increase in the commodification of natural resources as well as the legitimization of statist control (Radcliffe 2012) and naturalized Western juridical norms as universal (Rawson and Mansfield 2018). This is particularly the case when indigenous epistemologies and traditions of thought, such as Aymara and Quechua or Sumak Kawsay were drawn upon with an intention to provide an overlap with statist legal rights. Building more productively on differences, some have argued for shifting the focus away from rights and entitlements to thinking with the emphasis in indigenous epistemologies on obligation. Birrell and Matthews (2020, 284) suggest seriously considering alternatives that "*begin* with a question of obligation" so that we can focus on "concerns that are occluded by rights and the priority normally afforded rights-bearing subjects." Such a move requires moving beyond the association with duties as primarily conservative and invested in maintaining the status quo. To think about obligations seriously and move beyond statist rights as universal requires precisely the *unlearning* the Scott spoke of regarding the uniquely and universally emancipatory role of rights in European history and their place in political projects of progress.

I have argued here that the ideas and practices associated with *haqq* braid together collective and individual ethical responsibilities as well as entitlements, support greater openness to engagement across multiple registers, emphasize social relationship and shift the focus away from state enforcement. We can, therefore, approach *haqq* as both practice *and* concept. As socially embedded, deeply relational practice *haqq* has wide resonance among at least a third of the world's population. Practices related to *haqq* are not universal. Instead of universality, my interest here is in noting the generalizability, beyond Pakistan, of *haqq* across North Africa to South-East Asia. Thinking through the divergence between statist rights and *haqq* as articulated by my interlocutors mandates in the first instance a recognition of the variation in historical experiences and relationships with states and disabusing ourselves of the idea that statist rights are universal vehicles of justice. This does not mean jettisoning statist rights altogether but appreciating their limitations as well as the value of more specific responses rather than searching for universal ones. For instance, in proposing a decolonization of the ethics of migration by following the lives of transborder Oaxacan communities that exceed the boundaries of the American and Mexican states, Amy Reed-Sandoval (2016, 103) proposes solutions specific to transborder communities and the need to engage with the diversity of the migration experiences, beyond the "limited, philosophically speaking… simple categories of 'immigrant community' or 'national minority.'"

Even as we recognize the regionally embedded practical valence of *haqq*, we can also approach it as a generative concept available for deployment in situations where we wish to denote or think about non-statist justice. Thinking with the concept shifts the focus toward the agency of the migrants in political and epistemic terms. How would it change the ethical questions that shape our discussion if we approach Global South migrants with a view that rather than "being powerless, refugees have the power to completely disrupt our theoretical framework for understanding the international political order of things" (Cole 2020a, 36)? My interlocutors were insistent about being equal moral agents and as such they recognized that they carry duties as well as entitlements. As equal moral

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agents, they expected to demonstrate responsibility themselves and *demanded* reciprocal responsibility from their new neighbors. This was foundational to their claims for justice. In arguing that victims also have duties as equal moral agents, Visanthakumar (2018, 471) has reminded us that we "do, and should, look askance at resistance movements that involve victims only as mute objects of rescue." As a concept *haqq* builds in an explicit role for migrant agency in building relationships of obligation and entitlement. Agency, however, is not the same as success. I do not suggest here that practices of *haqq* are always successful in facilitating justice for migrants. Of course, neither are statist rights.

An important implication of thinking with the concept of *haqq* and of global south migrants as agentive actors is that it opens the potential for building transnational alliances based on mutual engagement rather than as acts of charity and benevolence. Foregrounding colonial legacies as well as transnational relationships of solidarity rather than benevolence and abstract ethical commitments, we might, as Valdez (2019) has argued persuasively, move beyond statist visions and focus instead on alliances between marginalized segments of society across sub-national and supra-national levels. Such alliances can become effective means of addressing shared injustices as many twentieth-century anti-colonial activists and thinkers had proposed in their bid to move beyond the nation-state. As an already influential conception of non-statist justice *haqq* can help us think of "non-scripted futures" beyond liberal, statist rights (Odysseos 2023, 17) and a new "long term agenda to challenge the very terms set by existing frameworks" (Menon 2004, 238).

Ultimately, most borders in the world are neither fully open nor closed, they are porous. Thinking with and through the concept of *haqq*, with its emphasis on collective as well as individual responsibility and entitlement beyond the state to enable justice produces a different ethical question for theorists of migration. Rather than focusing on the state's right to exclude, an important question that emerges for our consideration is: how should I and my community respond to migrants and refugees?

SUPPLEMENTARY MATERIAL

To view supplementary material for this article, please visit http://doi.org/10.1017/S0003055424000972.

ACKNOWLEDGMENTS

My first debt of gratitude is to the refugees and migrants who engaged with this research with generosity and patience. For helpful conversations and comments, I am grateful to Roxanne Euben, Sanjay Seth, Lois McNay, Sarah Fine, Mollie Gerver, and Steven Klein. Versions of this article were presented at the Universities of Oxford, Geissen, Queen Mary, Durham, Sussex, KCL, and the LSE as well as LUMS, New School and Columbia University, and Queens University. I am grateful to the organizers, audiences, and commentators for their feedback. Finally, the reviewers and editors raised immensely generative questions for me to address and I am grateful to them for their thoughtful engagement.

FUNDING STATEMENT

This research was funded by an ERC Starting Grant (Project Number: 313652) "Tolerance in Contemporary Muslim Practice: Political Theory Beyond the West."

CONFLICT OF INTEREST

The author declares no ethical issues or conflicts of interest in this research.

ETHICAL STANDARDS

The author declares the human subjects research in this article was reviewed and approved by King's College London (REP-L/12/13-1). The author affirms that this article adheres to the principles concerning research with human participants laid out in APSA's Principles and Guidance on Human Subject Research (2020).

REFERENCES

Abizadeh, Arash. 2008. "Democratic Theory and Border Coercion: No Right to Unilaterally Control Your Own Borders." *Political Theory* 36 (1): 37–65.
Abrams, Lynn. 2010. *Oral History Theory*. London: Routledge.
Ackerly, Brooke, Luis Cabrera, Fonna Forman, Genvieve F. Johnson, Chris Tenove, and Antje Wiener. 2021. "Unearthing Grounded Normative Theory: Practices and Commitments of Empirical Research in Political Theory." *Critical Review of International Social and Political Philosophy* 27 (2): 156–82.
Agrama, Hussein Ali. 2016. "Justice between Islamic Shari'a and Western Legal Tradition: Remarks on the Comparative Context." In *A Companion to the Anthropology of the Middle East*, ed. Soraya A. Turki, 363–90. London: Wiley Blackwell.
Ali, Noman G., and Shozab Raza. 2022. "Worldly Marxisms: Rethinking Revolution from Pakistan's Periphery." *Comparative Studies of South Asia, Africa and Middle East* 42 (2): 489–504.
Allen, Amy. 2016. *The End of Progress: Decolonizing the Normative Foundations of Critical Theory*. New York: Columbia University Press.
Amighetti, Sara, and Alasia Nuti. 2016. "A Nation's Right to Exclude and the Colonies." *Political Theory* 44 (4): 541–66.
An-Na'im, Abdullahi Ahmad. 1990. *Toward an Islamic Reformation: Civil Liberties, Human Rights, and International Law*. Syracuse, NY: Syracuse University Press.
Arbab, Safoora. 2019. "The Ecstasy and Anarchy of Nonviolence: The Khudai Khidmatgar Resistance in the North-West Frontier of British India." PhD diss. University of California, Los Angeles.
Arneil, Barbara. 1996. *John Locke and America: The Defense of English Colonialism*. Oxford: Oxford University Press.
Banerjee, Mukulika. 2000. *The Pathan Unarmed*. Karachi, Pakistan: Oxford University Press.
Bardawil, F. 2018. "Césaire with Adorno: Critical Theory and the Colonial Problem." *The South Atlantic Quarterly* 117 (4): 773–89.
Benhabib, Seyla. 2004. *The Rights of Others: Aliens, Residents and Citizens*. Cambridge: Cambridge University Press.

https://doi.org/10.1017/S0003055424000972 Published online by Cambridge University Press

Bhambra, Gurminder. 2021. "Decolonizing Critical Theory? Epistemological Justice, Progress and Reparations." *Critical Times* 4 (1): 73–89.
Birrell, Kathleen, and Daniel Matthews. 2020. "Re-storying Laws for the Anthropocene: Rights, Obligations and an Ethics of Encounter." *Law and Critique* 31: 275–92.
Brohi, A. K. 1978. "Islam and Human Rights." In *The Challenge of Islam*, ed. Altaf Gauhar. London: Islamic Council of Europe.
Brown, Wendy. 2000. "Suffering Rights As Paradoxes." *Constellations* 7 (2): 208–29.
Bulley, Bulley. 2024. "Beyond the Eurocentrism of Immigration Ethics: Tanzania and Pan-African *Ujamaa*." *Journal of International Political Theory* 20 (2): 181–99.
Burbank, Jane, and Frederick Cooper. 2010. *Empires in World History: Power and the Politics of Difference*. Princeton, NJ: Princeton University Press.
Butler, Judith. 2010. *Frame of War: When is Life Grievable?* London: Verso.
Chakrabarty, Dipesh. 2000. *Provincializing Europe: Postcolonial Thought and Historical Difference*. Princeton, NJ: Princeton University Press.
Cheah, Pheng. 2006. *Inhuman Conditions: On Cosmpolitanism and Human Rights*. Cambridge, MA: Harvard University Press.
Cole, Philip. 2020a. "Framing the Refugee" *Etikk i praksis. Nordic Journal of Applied Ethics* 14 (2): 35–51.
Cole, Philip. 2020b. "Global Displacement in the 21st Century: Towards An Ethical Framework." *Journal of Global Ethics* 16 (2): 203–19.
D'Souza, Radha. 2018. *What is Wrong With Rights? Social Movements, Law and the Liberal Imagination*. London: Pluto Press.
Darling, Linda. 2002. "Do Justice, Do Justice, For That is Paradise": Middle Eastern Advice for Indian Muslim Rulers." *Comparative Studies of South Asia, Africa and the Middle East* 22 (1): 3–19.
Emon, Anver. 2006. "*Huquq Allah* and *Huquq al-'Ibad*: A Legal Heuristic for a Natural Rights Regime. *Islamic Law and Society* 13 (3): 325–91.
Esmeir, Samera. 2006. "On Making Dehumanization Possible." *PMLA* 121 (5):1544–51.
Euben, Roxanne. 1996. *Enemy in the Mirror: Islamic Fundamentalism and the Limits of Modern Rationalism*. Princeton, NJ: Princeton University Press.
Euben, Roxanne. 2006. *Journeys to The Other Shore: Muslim and Western Travelers in Search of Knowledge*. Princeton, NJ: Princeton University Press.
Fanon, Frantz. [1963] 2004. *The Wretched of the Earth*. London: Penguin.
Fine, Sarah. 2019. "Refugees, Safety, and a Decent Human Life." *Proceedings of the Aristotelian Society* 119 (1): 25–52.
Fine, Sarah. 2020. "Refugees and the Limits of Political Philosophy." *Ethics & Global Politics* 13 (1): 6–20.
Fine, Sarah, and Lea Ypi. 2016. *Migration and Political Theory: The Ethics of Movement and Membership*. Oxford: Oxford University Press.
Finlayson, Lorna. 2020. "If This Isn't Racism, What Is? The Politics of the Philosophy of Immigration." *The Aristotelian Society* 94 (1): 115–39.
Geertz, Clifford. 1983. *Local Knowledge: Further Essays in Interpretive Anthropology*, New York: Basic Books.
Gerver, Mollie. 2021. "Must Refugees Return?" *Critical Review of International Social and Political Philosophy* 24 (4): 415–36.
Hallaq, Wael. 2009. *Shari'a: Theory, Practice, Transformations*. Cambridge: Cambridge University Press.
Hallaq, Wael. 2014. *The Impossible State: Islam, Politics and Modernity's Moral Predicament*. New York: Columbia University Press.
Harper, Tim. 2020. *Underground Asia: Global Revolutionaries and The Assault on Empire*. London: Penguin.
Herzog, Lisa, and Bernard Zacka. 2017. "Fieldwork in Political Theory: Five Arguments for an Ethnographic Sensibility." *British Journal of Political Science* 49 (2): 763–84.
Honig, Bonnie. 2006. "Another Cosmopolitanism? Law and Politics in the New Europe." In *Another Cosmopolitanism*. The Berkeley Tanner Lectures, eds. Seyla Benhabib and Robert Post, 102–27. New York: Oxford University.
Iqtidar, Humeira. 2021. "Jizya Against Nationalism: Abul Ala Maududi's Attempt at Decolonizing Political Theory." *Journal of Politics* 83 (3): 1145–57.
Iqtidar, Humeira. 2023. "The People in Their Difference." In *Towards Peoples' Histories in Pakistan: (In)audible Voices, Forgotten Pasts*, eds. Kamran Asdar Ali and Asad Ali, 201–21. London: Bloomsbury.
Jaggar, Alison M. 2020. "Decolonizing Anglo-American Political Philosophy: The Case of Migration Justice." *Aristotelian Society* 94 (1): 87–113.
Kamali, Mohammad H. 1993. "Fundamental Rights of the Individual: An Analysis of *Haqq* (Right) in Islamic Law." *American Journal of Islamic Social Sciences* 10 (3): 340–65.
Khadduri, Majid. 1984. *The Islamic Conception of Justice*. Baltimore, MD: Johns Hopkins Press.
Kukathas, Chandran. 2012. "Why Open Borders." *Ethical Perspectives* 19 (4): 650–75.
Kukathas, Chandran. 2021. *Immigration and Freedom*. Princeton, NJ: Princeton University Press.
Li, Xu, and Alexander Hicks. 2016. "World Polity Matters: Another Look At the Rise of the Nation State Across the World, 1816–2001." *American Sociological Review* 81 (3): 596–607.
Longo, Matthew. 2018. *The Politics of Borders: Sovereignty, Security and The Citizen After 9/11*. Cambridge: Cambridge University Press.
Lu, Catherine. 2019. "Decolonizing Borders, Self-Determination, and Global Justice." In *Empire, Race and Global Justice*, ed. Duncan Bell, 251–72. Cambridge: Cambridge University Press.
Madhok, Sumi. 2021. *Vernacular Rights Cultures: The Politics of Origins, Human Rights, and Gendered Struggles for Justice*. Cambridge: Cambridge University Press.
Mahmud, Tayyab. 2010. "Colonial Cartographies, Postcolonial Borders, and Enduring Failures of International Law: The Unending Wars along the Afghanistan-Pakistan Frontier." *Brooklyn Journal of International Law* 36 (1): 1–74.
Mamdani, Mahmood. 2004. *Good Muslim, Bad Muslim: America, Cold War and the Roots of Terror*. New York: Pantheon Press.
Mantena, Karuna. 2012. "On Gandhi's Critique of the State: Sources, Contexts, Conjectures." *Modern Intellectual History* 9 (3): 535–63.
Mazower, Mark. 2009. *No Enchanted Place: End of Empire and The Ideological Origins of the United Nations*. Princeton, NJ: Princeton University Press.
Mehta, Uday Singh. 1999. *Liberalism and Empire: A Study in Nineteenth Century British Liberal Thought*. Chicago, IL: University of Chicago Press.
Mehta, Uday Singh. 2010. "Gandhi on Democracy, Politics and The Ethics of Everyday Life." *Modern Intellectual History* 7 (2): 355–71.
Menon, Nivedita. 2004. *Recovering Subversion: Feminist Politics Beyond the Law*. Champaign: University of Illinois Press.
Miller, David. 2016. *Strangers in Our Midst: The Political Philosophy of Immigration*. Cambridge, MA: Harvard University Press.
Mills, Charles. 2008. "Racial liberalism." *PMLA* 123 (5): 1380–97.
Moosa, Ebrahim. 2000. "The Dilemma of Islamic Rights Schemes." *Journal of Law and Religion* 15 (1/2): 185–215.
Moyn, Samuel. 2010. *The Last Utopia: Human Rights in History*. Cambridge, MA: Harvard University Press.
Moyn, Samuel. 2018. *Not Enough: Human Rights in An Unequal World*. Cambridge, MA: Harvard University Press.
Nichols, Robert. 2006. *A History of Pashtun Migration: 1775–2006*. Lahore, Pakistan: Oxford University Press.
Nichols, Robert. 2018. "Theft is Property! The Recursive Logic of Dispossession." *Political Theory* 46 (1): 3–26.
Nielson, Laura Beth. 2000. "Situating Legal Consciousness: Experiences and Attitudes of Ordinary Citizens about Law and Street Harassment." *Law and Society Review* 34 (4): 1055–90.
Odysseos, Louiza. 2023. "After Rights, After Man? Sylvia Wynter, Sociopoetic Struggle and the 'Undared Shape'." *The International Journal of Human Rights*, 1–28. https://doi.org/10.1080/13642987.2023.2227101.
Parekh, Bhikhu. 1995. "Liberalism and Colonialism." In *The Decolonization of the Imagination: Culture, Knowledge and Power*, eds. Jan Nederveen Pieterse and Bhikhu Parekh, 81–98. London: Zed Books.
Portelli, Alessandro. 2010. *They Say in Harlan County: An Oral History*. New York: Oxford University Press.

https://doi.org/10.1017/S0003055424000972 Published online by Cambridge University Press

Radcliffe, Sarah. 2012. "Development for a Postneoliberal Era? Sumak Kawsay, Living Well and the Limits to Decolonialisation in Ecuador." *Geoforum* 43 (2): 240–49.
Rawson, Ariel, and Becky Mansfield. 2018. "Producing Juridical Knowledge: "Rights of Nature" or the Naturalization of Rights?" *Environment and Planning E: Nature and Space* 1 (1–2), 99–119.
Raz, Joseph. 1989. "Liberating Duties." *Law and Philosophy* 8 (1): 3–21.
Reed-Sandoval, Amy. 2016. "Oaxacan Transborder Communities and the Political Philosophy of Immigration." *International Journal of Applied Philosophy* 30 (1): 91–104.
Rizvi, Mubashir. 2019. *The Ethics of Staying: Social Movements and Land Rights Politics in Pakistan*. Stanford, CA: Stanford University Press.
Rosen, Lawrence. 2000. *The Justice of Islam*. New York: Oxford University Press.
Schacht, Joseph. 1970. "Law and Justice." In *The Cambridge History of Islam*, ed. P. M. Holt. Cambridge: Cambridge University Press.
Scott, Joan W. 1991. "The Evidence of Experience." *Critical Inquiry* 17 (4): 773–97.
Scott, David. 2010. "Antinomies of Slavery, Enlightenment, and Universal History." *Small Axe* 3 (33): 152–62.
Scott, David. 2012. "The Traditions of Historical Others." *Symposia on Gender, Race and Philosophy* 8 (1): 1–8.
Simon, Joshua. 2020. "Institutions, Ideologies, and Comparative Political Theory." *Perspectives on Politics* 18 (2): 423–38.
Sokhi-Bulley, Bal. 2023. "After Rights' Is Friendship: On Abandonment, Obligation and the Stranger." *The International Journal of Human Rights*, 1–19. https://doi.org/10.1080/13642987.2023.2250726.
Song, Sarah. 2018. "Political Theories of Migration." *Annual Review of Political Science* 21: 385–402.
Taiaiake, Alfred. 2021. "Expert Report on the Sovereignty of the Mohawks of Kahnawà:ke." Supreme Court of Canada, November 21, 2021.
Tanguay-Renaud, François. 2009. "Post-Colonial Pluralism, Human Rights and the Administration of Criminal Justice in the Federally Administered Tribal Areas of Pakistan (FATA)." *Singapore Journal of International and Comparative Law* 6: 541–96.
Trouillot, Michel. 1995. *Silencing The Past: Power and the Production of History*. New York: Beacon Press.
Valdez, Ines. 2019. "Association, Reciprocity, and Emancipation: A Transnational Account of the Politics of Global Justice." In *Empire, Race and Global Justice*, ed. Duncan Bell, 120–44. Cambridge: Cambridge University Press.
Valdez, Ines. 2021. "Socialism and Empire: Labor Mobility, Racial Capitalism and the Political Theory of Migration." *Political Theory* 49 (6): 902–33.
Visanthakumar, Ashwini. 2018. "Epistemic Privilege and Victims' Duties to Resist their Oppression." *Journal of Applied Philosophy* 35 (3): 465–80.
Waldron, Jeremy. 1987. *Nonsense Upon Stilts: Bentham, Burke and Marx on the Rights of Man*. London: Routledge.
Wimmer, Andreas, and Yuval Feinstein. 2010. "The Rise of the Nation State Across the World: 1818–2001." *American Sociological Review* 75 (5): 764–90.

https://doi.org/10.1017/S0003055424000972 Published online by Cambridge University Press