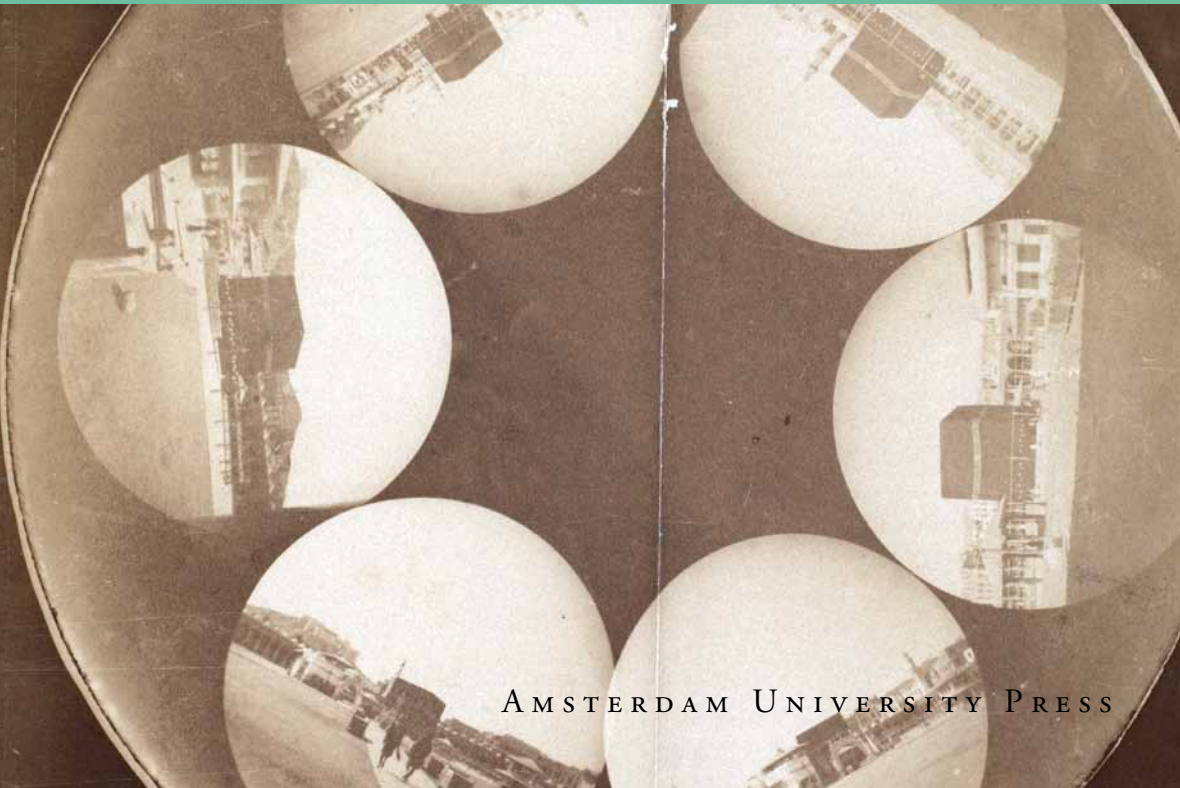# Colonial and Post-Colonial Governance of Islam

Continuities and Ruptures

MARCEL MAUSSEN, VEIT BADER
& ANNELIES MOORS (EDS.)

Colonial and Post-Colonial Governance of Islam

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IMISCOE Research

The cover image of the Kaaba in Mecca was taken in c. 1884 by Dutch Arabist and Islam expert Christiaan Snouck Hurgronje. The picture was taken surreptitiously by a camera hidden in the button-hole of his coat, using a 'revolver method' whereby six images were taken successively (*NRC Handelsblad* 28 April 2011). Such a view of one of Islam's most significant spots – coming from one of the most important advisors on Dutch colonial policy towards Islam in the East Indies – nicely adds to the perspectives on Islam in colonial and post-colonial periods covered in this book.

Contents

Preface

The chapters included in this edited volume are a selection of the papers presented at the 'Colonial and postcolonial governance of Islam: Continuities and ruptures' workshop, held at the International Institute for the Study of Islam in the Modern World (ISIM), in Leiden, the Netherlands, in August 2008.

The workshop was part of a series of activities organised by IMISCOE Network of Excellence Cluster B6 on linguistic, cultural and religious diversity and related policies. With respect to religious diversity, one of the fields to explore was the various perspectives on the governance of Islam in Western European societies. After publication of 2007's special issue of the Journal of Ethnic and Migration Studies (volume 33, issue 6) edited by Veit Bader on this topic, ensuing debates highlighted the need to address the relevance of modern imperialism for contemporary forms of governance of Islam in Europe. This also entailed widening the historical and geographical scope of the project. Such a historical-comparative and transnational perspective on the colonial and post-colonial governance of Islam fit very well with existing research interests at ISIM. Both the workshop and the resulting edited volume are the result of a very productive collaboration.

Marcel Maussen
Veit Bader
Annelies Moors

Chapter 1
Introduction

Marcel Maussen and Veit Bader

1.1 The particular position of Muslims and the special status of Islam

There is a renewed interest for the ways in which imperial encounters have shaped the development of Islam and for the various legacies of colonial rule. This volume explores configurations of opportunities and constraints for Muslim life in colonial societies and in post-colonial contexts in Africa, Asia, the Middle East and Europe. Western European societies are post-colonial because they have accommodated large numbers of immigrants from countries they once colonised and because imperialism is a part of their cultural and political history.[1]

Over the past decades, a growing interest has developed for all kinds of aspects of regulation or governance of Islam. If we focus on the discussion about colonial and post-colonial situations, we can demarcate three scholarly fields. A first field of study is the history of colonialism. There is a growing interest within colonial history for the cultural dimensions of imperialism and for the law and legal systems of domination.[2] Several studies focus particularly on the ways imperial rule structured cultural, religious and family life in Muslim societies. One line of interest involves the configurations that emerged when positions of religious authority as well as religious education and training were being shaped in political contexts set by imperial goals and local power configurations (McDougall 2010; Jeppie this volume). Other studies focus on the role of colonialism in the emergence and development of modernisation movements in Islam and Islamic reformism in the late nineteenth century. By way of illustration of recent studies on French colonial governance of Islam, we mention the volume edited by Luizard (2006), which explores aspects of French colonial policies in the Muslim world and the monograph on French Muslim policy by Le Pautremat (2003).[3]

A second field concerns research on the legacies of colonial forms of governance in post-colonial societies, especially in Africa and Asia. Such legacies take on a wide variety of forms. They include how particular colonial legacies shaped the relationships between customary law, state law and Islamic law. They touch upon matters of content and competing legal claims, for example in the case of property rights. In colonial contexts,

mixed forms of government and legal arrangements often emerged, partly aiming to create separate (and unequal) legal orders for Europeans and natives, partly because of the parallel application by Western rulers of military and civil law, and partly resulting from attempts not to simply substitute indigenous law and culture with Western, secular models. In the formerly colonised world, the continued relevance of imperial rule for present-day arrangements is evident, for instance, in Malaysia. In a broader process of questioning these models, these mixed legal forms and 'regimes of toleration' witness a renewed interest (Walzer 1997; Barkey 2008). There is also a renewed interest in regimes of government of ethnic and religious pluralism that have emerged in highly diverse post-colonial societies, such as India and Indonesia. Political theorists working on topics of secularism, diversity and pluralism explore what there is to learn from these countries for states that aim to live up to goals of even-handedness and relational neutrality (Bowen 2003; Bhargava 2009a, 2009b; Bader 2009, 2010). In particular, political theorists defending a contextual approach and interested in institutional proposals increasingly share interests with legal scholars who analyse regimes of legal plural-ism and parallel judicial and legal regimes (Grillo, Ballard, Ferrari, Hoekema, Maussen & Shah 2009).

Thirdly, there is a growing body of research on the ways Western European countries seek to create opportunities for the development of Islam (for an overview, see Maussen 2007). Recent studies have sought to analyse diverging patterns of institutionalisation and state accommo-dation of Muslim demands for recognition in view of existing state-church regimes and models of national integration. Increasingly, the exceptional position of Islam in comparison with other religions and of Muslim populations in comparison with other immigrant groups has been the-matised, both in public and political debate and in academic research. Some seek to explain this exceptional position in terms of the essence of Islam and its alleged incompatibility with modern, European values (Bawer 2006). Others argue that restrictive policies that target Muslims specifically – such as bans on headscarves in public schools or curbs on the building of mosques or minarets – need to be understood in light of contemporary populist politics of fear and the growing resentment against migrants and multiculturalism, and more specifically worldwide contestation over Islam and Islamic radicalism. Yet another – and for our purposes, more important – explanation seeks to understand the special status of Islam in contemporary Europe historically. More than the gen-eral way in which the construction of European identity as Christian de-veloped in opposition to Islam 'since the Crusades', we are interested in the construction of Islam's alterity as a contrast to Western Modernity in the context of modern, European imperialism. Following Said's observa-tion that the Orientalist approach to Islam perceived it as an unchanging,

transcendent, textual, monolithic, immutable and ultimately ahistorical faith, the idea is that colonialism and its underlying ideas continue to shape responses to Islam in Europe (Asad 2003; Van der Veer 2002; Mahmood 2005; Lorcerie 2006; Sellam 2006; Malik 2009). Especially for those European countries with long-lasting experiences in governing over Muslim populations – Great Britain, France, the Netherlands, Portugal – exploring both continuities and discontinuities in their strategies vis-à-vis Islam is interesting. That is all the more so because the 'new Islamic presence' that results primarily from immigration is very often a direct consequence of the aftermaths of colonialism – 'we are here because you have been there' – even though it varies per country whether and to what extent this is the case.

In view of these recent studies, we found it worthwhile to organise a workshop that would bring together scholars working in various fields through merely suggesting that there is a shared interest in what we labelled the 'colonial and post-colonial governance of Islam'. Still, it remained to be seen whether – and, if so, how – some kind of theoretical common ground could be demarcated to bridge the different research areas and disciplines. The geographical and historical range of societies, processes and topics is huge. Given the span of the field, one may wonder whether the contributions credibly reflect the interdisciplinary approach that is required. By introducing a conceptual framing in terms of 'colonial governance' to extremely dissimilar circumstances, contexts and phenomena, we risk suggesting from the outset that there must be (self-evident) substantial similarities across time and space. Nevertheless, there were many different types of colonial regimes (protectorates, settler colonies, mandates), as well as numerous forms of colonial domination. Colonial policies were based on a variety of competing and often contradictory ideas and doctrines that were deeply contested from all sides; in processes of implementation and execution, they would constantly be altered in reaction to local circumstances. In addition, only a part of the forms of regulation and patterns of behaviour that would develop in colonial societies can be plausibly explained in light of intentional strategies of colonial governance. As Clancy-Smith suggests in her contribution to this volume, we should perhaps refer to the unstable succession of inventions, adjustments, contradictions and manoeuvres as 'colonialism continually in the making'. In a similar way, McDougall (2010: 556) has suggested that the study of the colonial state and the nature of its relationships to the people it sought to dominate requires scrutinising 'how this process really developed in the fine details of local power struggles within colonial society', rather than focusing on the overarching story of colonial policymaking and the growth of nationalism. In the next two sections, we elaborate on how speaking of the 'colonial and post-colonial governance of Islam' can serve as an analytical framework that allows us to begin asking relevant

comparative and explanatory questions across the collection of events, processes and contexts (social, political and historical) that figure in the various contributions to this volume.

1.2   Colonialism/post-colonialism

The term 'post-colonialism' has become ever more heterogeneous and diffuse, especially in relation to the growth of the field of 'post-colonial studies' that links history, anthropology, literary criticism, cultural studies and critical perspectives on race, ethnicity, secularism and gender. In addition, the reference to post-colonialism is often seen as implying a particular theoretical standpoint, namely a post-structuralist-inspired analysis of power relations that seeks to deconstruct the ways imperial notions continue to inform discourses and interactions in the contemporary world (Loomba 1998). In view of these significances of the concept 'post-colonialism', we stress that we use it in quite a restricted sense. We speak of post-colonialism in relation to particular societies and states, namely, those that have been subject to colonial rule or have exercised colonial rule, and in relation to the historical period since independence. The main reason to speak of 'post'-colonialism is to underline the expectation that the discourses and practices of colonialism will have left important legacies for the societal and political configurations that emerged after the formal end of colonial rule. By using the twin concept of colonial/post-colonial to analyse configurations of governance of Islam in a wide variety of societies and contexts, we aim to introduce an analytical perspective that focuses on historical processes and grasps the distinctive characteristics of colonial models of governance.

Firstly, then, we argue that configurations and patterns of governance should be analysed historically, as processes that unfold over time, ones that may generate path-dependent and path-breaking patterns and ones in which what happens earlier shapes what comes later. In the case of colonised countries, using the colonial/post-colonial grid to give a temporal ordering to history emphasises the distinction between a period of Western rule and the shift towards independence. It highlights how the transition to modernity in these societies was profoundly shaped by imperialism, which thereby constituted a tremendous legacy for all aspects of governance, society and the state after independence. Importantly, emphasising a shift from colonial regimes to a post-colonial context also suggests a different view on the history of the governance of Islam in Western Europe. In the literature, one usually finds attempts to understand state responses to the institutionalisation of Islam in view of the histories of European nations, for example, by comparing reactions to Islam with the history of religious pluralism or by comparing the integra-

tion of North African immigrants with responses to intra-European migration in the nineteenth and early and mid-twentieth centuries.[4] By contrast, the colonial/post-colonial prism suggests comparing present-day policies of accommodation of Islam and Muslim populations in Europe to colonial policies pursued overseas by imperial powers such as France, Great Britain, Portugal and the Netherlands (Bowen 2006; Maussen 2009).

Secondly, we argue that the underlying institutional logics of colonialism/modern imperialism can be analysed at a more general level, going beyond the differences between French, British, Portuguese or Dutch colonial regimes. We therefore assume that we find a minimum of similarities in models of governance of Islam in the different territories and periods, which illustrate that they are all examples of colonial governance. Analytically speaking, we can make a further distinction between the underlying ideas and logics of colonial models of governance and the specific conditions and contexts for imperial rule in Muslim societies.

Let us begin with the broader characteristics of colonial models of governance. The geopolitical organisation of modern imperialism conceived of the empire as an entity that encompassed a European heartland and its overseas territories. Different societies, cultures and peoples were joined together into a colonial order that was organised around the principle of superiority of European culture and the right of European colonisers to rule over indigenous people and societies. Among the more constant motives and effects of colonial rule was the will of European countries to gain international geopolitical power and prestige, to extract wealth from colonised territories and produce economic dependency and to civilise and modernise non-European populations. Despite the fact that most imperial powers foresaw that in the more or less remote future colonised societies would gain independence, the forms of colonial rule we discuss are all informed by the will to maintain colonial hegemony.[5]

There are also a number of contextual factors in Muslim societies that have greatly contributed to the emergence of distinctive patterns of colonial governance over Islam. One of the major challenges for imperial powers in ruling over vast territories and huge populations was to anchor their authority in local societies and to find ways of managing indigenous sources of independent power and authority, also in relation to the constant fear of collective unrest (Clancy-Smith 1994). Managing Islam-based authority and prestige was an important challenge in ruling over Muslim societies. Besides the use of violence and force, this also resulted in attempts to forge strategic alliances in politics of divide and rule and in attempts to co-opt leaders with sufficient prestige among the native populations. Often, interlocutors were created to serve as anchor points for authority in domains of religion, law, culture and politics. Simultaneously, most imperial authorities, at least formally and on occasion, promised

to abstain from direct interference in matters of Islam and to respect re-
ligious freedom.[6]

Another distinctive contextual factor for colonial governance was the
role of transnationalism. On the one hand, colonial rule was inherently
transnationally organised because of the ways policies and models of
governance would travel between different colonies, sometimes within
the confines of the British Empire or the French Empire, but sometimes
also as a form of policy-learning between empires.[7] On the other hand,
transnationalism was also a distinctive feature of Muslim societies and
Islam itself; over the course of the nineteenth century, Islam became more
and more transnationally organised. Imperialism itself created opportu-
nities for movement of people and ideas by connecting societies and ter-
ritories and by reducing physical, linguistic and cultural distances. Simul-
taneously, institutions in the heartlands of Islam, such as the mosque
university of Al-Azhar in Egypt, grew in importance. In specific circum-
stances, these transnational passages became more intense, for example,
because of the yearly pilgrimage to Mecca, travelling Islamic scholars and
Sufi orders, dissemination of reformist ideologies and Islam-inspired
revolts against Western rule. Managing these forms of transnational
traffic was a constant concern, as imperial authorities sought to obstruct
the growing influence of pan-Islamism and root out movements defend-
ing solidarity between all Muslims.

Another contextual factor that shaped colonial patterns of governance
was the dispersed nature of government and policy that was characteristic
of these forms of rule. Far from having a unified, stable and effective in-
stitutional centre, colonial governance resulted from interactions between
four poles that were themselves internally divided. There was a European-
based administrative pole comprising ministries, political headquarters
and institutions to advise and develop colonial policies.[8] There were the
various colonial administrations that were located in the overseas territo-
ries. Additionally, there was the pole of communities of immigrant origin
who constituted relatively autonomous centres of power that were distinct
from the colonial administration. These included European settler com-
munities, such as pieds noirs in French Algeria, the Christian missionar-
ies as well as other ethnic groups, such as Chinese communities in the
Dutch East Indies or Indians in Mozambique. These groups often pursued
their own interests and had their own thoughts about the ways the colonies
should be governed, including alternative ideas about economic policy,
the value of indigenous cultural life, religion and secularism (Daughton
2006). Finally, there were all the different sources of power and authori-
ty in indigenous society itself. Actual patterns of governance resulted from
contentious encounters involving all these poles.

As a final contextual factor that greatly impacted patterns of governance
in colonised Muslim societies, we mention nationalism and nationalist

ideologies. Over the course of the nineteenth century, nationalism became related in a complex way to religious identity, Islam, modernity and resistance to colonial rule (McDougall 2006; Barkey 2008).

In sum, by speaking of colonial governance we are assuming that imperial rule consisted of distinctive modes and logics of governance, which, in interaction with series of contextual factors in Muslim societies, resulted in typical colonial forms of governance of Islam. By speaking of post-colonial governance, we are assuming that patterns of governance emerging after the end of imperial systems – both in the West and in 'the Rest' – will be marked in various ways by the experience of colonialism. This historical understanding does not condemn us to deterministic explanations, however, nor does it mean that 'history is destiny'. In addition, as Clancy-Smith observes in this volume, there is a risk that by using the colonial/post-colonial distinction to periodise history, a temporal binary of 'before and after' is constructed and clean breaks and ruptures are suggested, both with respect to the beginnings of colonial rule and its ending. This implies that instead of assuming to find clean breaks and sharp ruptures, we should set out to describe processes of transitions that are characterised by continuities and ruptures.

1.3   Government or governance of Islam?

Over the past two decades, a number of academic fields, including political science and political economy, have witnessed attempts to develop conceptual tools to analyse modes of political steering involving public and private actors without only looking at traditional forms of government and the state. State-centred or government approaches tend to focus on action coordination by 'public hierarchy' and rules, particularly law and law-like regulations.

Around the fashionable concept of 'governance', new approaches have been developed to focus on various modes of governance that can be located on a continuum between public authority and societal self-regulation (Treib, Bähr & Falkner 2005: 6). The usefulness of governance approaches is now well established for the study of multilevel institutional systems, the study of changes triggered by the nation-state's re-embedding in transnational institutional environments (for example, in European Union politics and the regulation of financial markets) and in order to analyse the changing role of the state in the 'network society'. Nevertheless, this perspective has not been widely used in studies of regulation of religious diversity. In another context, we have argued that the governance perspective would be helpful to analyse patterns of accommodation of Islam in Europe (see Bader 2007; Maussen 2007: 4-5). We now argue that it may also be helpful to analyse the ways in which opportunities for Islam

and Muslim life are shaped in colonial and post-colonial contexts.

Compared with the study of broad patterns or configurations of economy, society, culture, politics, nations, states and religions (organised and otherwise), the focus of the governance perspective is narrower. In terms of mechanisms of action coordination – markets, networks, associations, communities, private and public hierarchies (Hollingsworth & Boyer 1997) – governance focuses on regulation, steering or guidance by a variety of means, not only rules. It includes only those mechanisms of action coordination that provide intentional capacities to regulate, including co-regulation and self-regulation. Governance, then, includes a variety of actors and modes of coordination in the perspective of regulation by 'policies' in a very broad sense.

Governance is best understood by discussing it along two axes of regulation, distinguishing between internal and external governance and between democratic (bottom-up) and hierarchical (top-down) governance. Both internal and external governance can be top-down or bottom-up. Internal governance by the respective religious communities themselves includes 'self'-regulation by religious laws and customs (e.g. by sharia) of many aspects of life, from the cradle to the grave. The rules and their interpretation and application can either be more autocratic and hierarchical (e.g. formally organised, autocratic church hierarchies and religious elites) or more democratic and bottom-up (e.g. by religious congregations and democratically elected religious organisations and leaders, by more informal networks and associations of believers or by religious counter-elites like dissenting theologians, leaders of religious political parties and communal business elites). The internal governance of religious communities clearly varies widely between religions (e.g. Catholicism approaching the autocratic pole, radical Protestantism approaching the democratic one and Islam approaching a less organised one). There is also variation in the historical development of specific religions. External governance also includes more voluntary and democratic forms of self-regulation by interfaith networks, associations and ecumenical organisations as well as 'corporate governance' by semi-private and private organisations. Most attention has been given to the external governance of religious diversity by governments or public hierarchies – in other words, what polities (on different levels, from local to supra-state), legislations, administrations, jurisdictions and the different departments of government do to religions, particularly by law or law-like rules.

A governance perspective for studying Islam in colonial and post-colonial settings can prove more advantageous than other traditional sociological and political science perspectives that focus primarily on government. A government perspective primarily looks at regulation by the imperial state, in the form of laws and law-like regulations, official

policies, policy declarations and doctrines that are elaborated and theorised by or for European administrations.[9] It tends to privilege the analysis of political and policy conflict, encounters and resistance at the level of the state. It privileges explanations in colonial governance in terms of shifts of official policy paradigms, such as the shift from 'assimilation to association' in French colonial rule (Betts 1961) or from 'liberal to ethical policy' in Dutch rule over the East Indies. In terms of empirical material, the government approach also implies a closure that we find problematic, as it focuses on legal texts, official government documents and reports dressed up by colonial administrations.

We do not intend to caricaturise what we have labelled as 'government' or 'state-centric' approaches to use them as a straw-man. Rather, we aim to underline the advantages of applying a governance perspective for an adequate conceptual mapping of the complexity of our research object: the regulation of Islam. Its complexity must be reduced for purposes of both empirical research and theory-building (in order to answer explanatory why-questions), though this reduction has to take place stepwise and in a considered way. The governance perspective asks for reasons to exclude certain issues instead of promoting the often quite drastic reductions of complexity and premature empirical and theoretical closures that occur in the government approaches discussed above. These closures include:[10]

- Ignoring or neglecting the internal or self-regulation of Muslim traditions in networks, associations and organisations, which means that government approaches are unable to analyse the complex relationship between internal and external regulations, particularly by the colonial or post-colonial 'state'.
- Focusing exclusively on 'management' or hierarchical top-down regulation or neglecting the difference between bottom-up self-regulation and top-down self-regulation and external regulation.
- Neglecting the multiplicity of actors and of strategies by exclusively focusing on 'the state' (i.e. 'state-centric' approaches).
- Neglecting the internal diversity or heterogeneity of actors (both of Islam as well as the imperial, colonial and post-colonial state).
- Ignoring the variety of means and aims of regulation strategies and tactics, their mixes, changes and, particularly, their internal tensions, conflicts and contradictions.
- Neglecting the crucial differences between ideologies of regulation and models of governance, on the one hand, and actual policies and muddy regimes of governance, on the other, particularly the 'effectiveness' of actual regulation.

In sum, we think that the governance perspective provides better oppor-

tunities for a mapping of the research field. Moreover, it helps develop analytical foci that can guide empirical research and theories.

1.4 Aspects of governance and outline of the book

The contributions in this volume focus – in one way or the other – on the regulation of Islam. To map out configurations of opportunities for Muslim life, we can distinguish between different aspects of the governance of Islam. First, there is the regulation of religious education and religious authority, which involves, among other things, training Muslim scholars (ulama, qadis), the functioning of religious colleges (madrassas), recognition by established powers in positions of religious authority, the role Islamic doctrine and teaching plays in public schools and responses to the travelling of religious individuals or organisations (for example, in the case of Sufi orders). Second, there are institutional arrangements and practices that aim to regulate property and facilities, including Islamic pious endowments (e.g. *habous* and wakf) and other forms of financing of religious institutions, as well as public policies vis-à-vis the construction of mosques or regulations in burial. Third, authorities in colonial and post-colonial contexts contribute to arranging the relations between Islam, law and social life. This includes the recognition and/or codification of Islamic law and the balancing of religiously based legal claims with systems of customary law (*adat*). In colonial and post-colonial contexts, this body of 'indigenous' legal practices exists in relation to European law, including military law and civil codes based in Western legal regimes (Meerschaut 2006). Of particular relevance in this respect is the place attributed to Islamic family and criminal law and to sharia courts (Peters 2005; Bowen 2003). Fourth, there are attempts to create, recognise and possibly institutionalise organisational platforms to speak for Islam and Muslim populations, for example, in the form of Muslim councils that existed in several colonial societies and, more recently, were set up in Western European countries (Laurence 2009). Fifth, there are those public policies that directly or indirectly shape opportunities for religion in a narrower sense, including regulation of the yearly hajj pilgrimage, religiously motivated dress and dietary codes, rituals and religious feasts.

Even such a tentative ordering of what we mean when speaking of the governance of Islam has its limitations. For one, as Moors observes in her contribution in this volume, 'aspects of Islam' do not simply exist as starting points for forms of state regulation. Instead, categories and meanings were 'produced in the course of contestations between colonisers and colonised'. Several contributions in this volume focus on how the very idea of a 'Muslim population' or a 'Muslim community' was produced, how processes of categorisation and self-definition developed

and how taxonomies of peoples developed in tandem with legal statuses and entitlements, for example, via the notorious Code d'Indigénat, indigenous codes in the Portuguese and French colonies. One might, therefore, want to add the techniques of government and the definitions of populations and peoples as another aspect of governance of Islam (see also Foucault 1991). Furthermore, opportunities and constraints for Muslim life often result from strategies and related goals that do not have Muslims or Islam as their primary target, but instead aim to produce modern nations, citizens, national communities and orderly cities or simply to uphold colonial hegemony and resist liberation movements. Even if we focus on public policies, we certainly do not claim that the governance of Islam originates exclusively in religious policies, let alone in specific Islam policies.

The volume grew out of a workshop that sought to bring together scholars from a variety of disciplines working on colonial and post-colonial forms of governance of Islam. Given the diversity of the subjects in the various chapters, we have chosen to group the contributions in a loose way, yet present them in an order that allows the reader to grasp typical patterns of colonial governance in a historical perspective. The first part includes chapters that provide historical perspectives on colonial regimes, whereas the second part includes chapters that emphasise continuities and ruptures in post-colonial situations. The following is a brief overview of the contributions in this book.

Part 1: Historical perspectives on colonial governance of Islam

Bonate's chapter analyses the development of Portuguese colonial government in Mozambique from 1900 to 1974. More deliberate strategies to govern Islam were only developed in the late 1960s, but her contribution shows in what ways colonial legal and constitutional regulations and ideological assumptions impacted the lives of Muslims and the Islamic community of Mozambique. Initially, the Portuguese pursued assimilationist strategies and confronted Islam, aiming to uphold the Catholic faith as a crucial marker of Portuguese national and cultural identity and seeing Islam as a threatening alternative form of 'civilisation'. Gradually, ideas arose around the need to shield the local, syncretistic form of 'black Islam' (*Islão negro*) from foreign influences and about the possibility of nationalising this form of Islam in Mozambique. Ultimately, this resulted in a truly Islamic policy introduced in the late 1960s. The chapter's second part analyses the relationships and struggles between African and Indian Muslims and between Sufism and Salafist groups in colonial and post-colonial Mozambique.

Jeppie's contribution discusses the education and training of a new

cohort of ulama and qadis to work under British sovereignty in the Sudan. One of the major official motivations of the British to become thus involved in Islamic education in the colony was to ensure that these scholars would staff the sharia courts and teach an acceptable Islamic message to the population. Because it was very difficult to control and direct unorganised ulama, it seemed better to invest in the training of scholars and give them recognition and government salaries. British authorities established contacts with the Egyptian reformist thinker and Grand Mufti Muhammad Abduh in view of establishing a respectable and recognised institution of Islamic education in Khartoum. British authorities and ulama entered into negotiations on the functioning of the institute. The British were committed to offering Islamic education and judicial training to secure their dominance over the colony, attempting to bring the less 'Islamic' and more 'local' elements into greater prominence. Yet, they could not roll back the Islamic educational process they had started. The Al-Maahad Al-Ilmi continued to be a highly respected place of learning for a vast part of the ordinary northern Sudanese public, well beyond the departure of its colonial sponsors.

Clancy-Smith problematises the idea of a sharp rupture between pre-colonial and colonial governance through an investigation of the Ottoman Regency of Tunisia in the late nineteenth and early twentieth centuries vis-à-vis practices of governance under the French protectorate. She demonstrates how colonial views of Islam and policies and practices aimed at Muslims were shaped through interactions between four principal colonial actors: protectorate authorities, indigenous Tunisians, Catholic missionaries and the resident Italian communities. The chapter's first part discusses the legal and institutional legacies and social formations that the French protectorate inherited from their Husaynid predecessors and explores the continuities and ruptures that characterised the transition to colonial rule. The second part contains a historical-ethnographic analysis of contentious struggles in the early protectorate: one case developed around attempts of a French company to obtain the property rights over a spring that was designated as Islamic *habous*. Other cases involve church properties, Christian and Islamic processions and attempts to impose building and hygienic codes on Italian schools. The contribution concludes that in order to understand colonial governance over Islam, historians should not only look at the state, but also pay attention to an entire range of actors and ways of doing, which included large numbers of 'non-Muslims' as well.

Leezenberg and Kanie situate British mandate rule over Iraq (1920-1932) within the broader context of preceding Ottoman rule and the early monarchy that followed independence. They draw upon a genealogical approach, aiming to trace the conceptual changes relating to notions like religion, the state and society that were introduced in various reforms

and changes in institutions and practices. They show how British mandate policies were shaped both by British experiences earlier and elsewhere and by Iraq's past as part of a rapidly changing Ottoman Empire. British policies institutionalised and rigidified existing cleavages, notably between rural and urban and between tribal and non-tribal social groups. The role of Islam and the position of ethnic and religious factions (Shiites, Kurds) in Iraq are the contingent outcome of different series of interactions and influences, which included Ottoman rule, British colonial rule, nationalist ideologies, local agency and intense power struggles.

Devji discusses how British rule destroyed royal and aristocratic forms of authority in India and thereby created opportunities for the establishment of religious ones. He explores the way in which the Aligarh Movement, consisting of Urdu-speaking laymen in northern India who set out to modernise Muslims, partook in the wider competition to define the Muslim community and its leadership. Simultaneously, the new leaders sought to recast Islam, to define the Muslim community as a non-political entity (a *qawm*, an Arabic word meaning something like 'tribe' or 'people') and to identify their own position in relation to it. Devji explores how new understandings of politics and governance emerged in this process in which the older recognition of governing social relations in terms of ethics and virtues was challenged by appreciating politics as a space of power relations.

Part 2: Continuities and ruptures in the governance of Islam in post-colonial situations

In her contribution to this volume, Moors traces genealogies of the regulation of contemporary concerns over Islamic dress. Whereas present-day discussions in Western Europe focus on women's dress, particularly the headscarf and face covering, she demonstrates how in attempts to produce modern nations, male items of dress, such as the fez, were the first the object of state regulation. Islamic dress codes were – and are – considered a sign and symbol of undesirable forms of Islam and were used as an instrument of state governance: for example, in Kemalist Turkey to homogenise and civilise the nation and its people and represent the nation as such to the world at large; today in Western Europe to oppose Muslim women's gender oppression. A comparison of gendered forms of governance in different contexts shows that authoritarian leaders of emerging nation-states, such as Turkey and Iran, were the most proactive in imposing dress regulations on their subject citizens. Colonial administrators were not so interested in regulating the appearance of their non-citizen subject populations, even less so in restricting Islamic headscarves and veils. When the public presence of religions was considered a threat to

colonial rule, such as in Algeria, however, non-intervention was not an option. Present-day forms of governing head and face coverings are working in a way that is closer to that of rulers of newly emerging nation-states than to colonial forms of governance. Nonetheless, we find traces of colonial discourses, in particular, the frequent references to Muslim women's gender subjugation and the ways in which this is employed to underline Islam's difference from and inferiority to Western culture.

Daechsel's chapter tells the story of Korangi, a town developed in Pakistan in the 1950s that was intended to be a form of urban rehabilitation and a showpiece of new commitment to 'modernisation'. Korangi had been designed and planned as a specifically 'Muslim' township, which included the creation of Muslim teahouses and the correct provision of mosques in neighbourhood clusters. Nonetheless, these architectural norms were quickly violated by local residents, who moulded the new urban environment with relative freedom; they created shops, tea stalls and small restaurants haphazardly and illegally, not in the carefully de-marcated public spheres. They also used the construction of mosques as a way to provide visibility and control over space to social formations that the township design had often tried to erase. Far from seeing Korangi as an illustrative example of the failure of an urban restructuring project or a weak post-colonial state, Daechsel proposes to understand the project as being illustrative of the agency of the Pakistani State and the residents who managed to turn it into a perfectly average lower middle-class neighbourhood.

Meerschaut and Gutwirth discuss development of the relations between the state and Islam within Malaysia, from pre-colonial times onwards. Whereas in a European context the accommodation of religious or customary law and courts is usually seen as a choice in favour of 'culture' rather than 'rights', the Islamic family law reforms in Malaysia conceive of Islamic law as a regime of rights. The systematisation and institutionalisation of Islamic law was achieved during British colonial rule concurrently with the introduction of English law, whereas customary law (*adat*) was not institutionalised in that way. In the post-colonial period, a further constitutional recognition of legal pluralism developed, resulting in parallel secular, Islamic and customary systems of family law. More recently, the reforms of Malaysian Islamic family law in the 1980s and early 1990s demonstrate creative contextual institutional ways to compromise between religion and state and between legal pluralism and equality. Nevertheless, the authors are critical of the more recent push for Islamic supremacy within the judicial arena.

Malik's chapter compares colonial and contemporary (liberal-democratic) forms of regulation of Muslim subjectivity. It begins by analysing the legal banning of *Angare*, a collection of short stories published in British India in 1932, because of its blasphemous character and how it

was offensive to Muslims. The incident demonstrates how colonial authorities and selected Muslim leaders could join hands in attempts to censor and control Muslim dissent. These strategies are then compared to contemporary efforts in Britain to include Muslim sensitivity in blasphemy legislation and to select 'liberal' gatekeepers to the Muslim community.

Machaqueiro discusses the case of the Islamic Community of Lisbon, an association of Sunni Muslims set up in 1968 and led by Suleiman Valy Mamede, a Mozambican of Indian origin who migrated to Portugal in 1953. The association aimed simultaneously to cater to the needs of Muslims in Lisbon and to establish the position of Islam as a part of the transcontinental Portuguese Empire. One of Mamede's goals was to build a central mosque in Lisbon. Although the Portuguese had long seen Muslims as a menace to their colonial rule, from the end of the 1960s, they began to perceive Muslim leaders as potential allies of the regime and developed a strategy to align Mozambican Muslim leaders to the Portuguese cause. Valy Mamede and the association he presided over came to be a nuisance to these goals pursued by the colonial regime. Portuguese authorities were reluctant to see all Muslims in the colonies being united under a federation of communities with its headquarters in Lisbon. Local Mozambican Islamic dignitaries also opposed this idea and challenged the self-acclaimed position of Valy Mamede as leader of all Muslims in the Portuguese colonies. Machaqueiro argues that these strategic interactions around the organisation and governance of Islam should be situated in the specific context of the semi-peripheral position of Portugal in the hierarchy of the world system.

Notes

1   See, for example, Blanchard, Bancel and Lemaire (2005), Shepard (2006) and Oostindie (2010).
2   See, for example, Gouda and Clancy-Smith (1998), Lorcin (1995), McDougall (2006) and Saada (2007).
3   Of course, we hasten to add that these are recent contributions to the many studies on French encounters with Islam, notably in Algeria (Ageron 1979), Tunisia (Clancy-Smith 1994) and French West Africa (Cruise O'Brien 1967, Harrison 1988, Conklin 1997 and Robinson 2000). It is evident that we cannot provide a state of the art or overview of historical studies on colonial rule and Islam here.
4   See, for example, Lucassen (2005) and Fetzer and Soper (2005).
5   This does not mean that the overall ambition to maintain imperial rule resulted in similar strategies. As several contributions in this volume will demonstrate, there were important shifts in political and military strategy, for example, in the context of the rise of Islamic reformist movements in the late nineteenth century and in the context of nationalist movements and independence wars.

6   The idea of respecting religious freedom often only existed as a 'symbolical dec-
     laration'. For example, in the early nineteenth century, the Dutch promised to
     respect the principle of religious neutrality in the East Indies, meaning there
     should be no preferential treatment of Christianity over Islam. In a similar way,
     the Convention of Bourmont, which marked the beginning of French rule in
     Algeria in 1830, assured that the French would respect the rights of Muslims in
     Algeria (Maussen 2009).
7   A well-known example is the way in which the French used Algeria as an experi-
     mental arena to develop colonial policies (Lorcin 1995). They would later imple-
     ment aspects of these policy models in other colonies and protectorates. By the
     late nineteenth century, however, Algeria often served as a counter-model for the
     governance of Islam, for example in the protectorate in Tunisia (Clancy-Smith
     this volume) and also in French West Africa (Harrison 1988; Robinson 2000).
     Similar processes of travelling of models of governance occurred in the British
     Empire. The transnational flux of policy models also cuts across empires. Between
     1891 and 1904, 25 French study missions visited the Dutch East Indies and showed
     particular interest in Dutch Islam policies and the ideas of Snouck Hugronje
     (Gouda 1995). In their African colonies, the Portuguese pursued policies vis-à-vis
     'black Islam' that were inspired by the ideas of Paul Marty and French colonial
     officers in West Africa (Bonate this volume).
8   An example is the French Commission Interministerielle des Affaires Musul-
     manes (CIAM), which was created in 1911 and took an interest in policies on Islam
     in the colonies, in French foreign policy in the Muslim world, and in the accom-
     modation of Muslims who were living in France because of the efforts during
     World War I (Le Pautremat 2003).
9   Well-known examples of official colonial policies and doctrines with regard to
     religious and cultural pluralism are British 'indirect rule', Dutch Ethical Policy
     (introduced in the early twentieth century in the Dutch East Indies), French
     Politique Musulmane (see Le Pautremat 2003) and *la politique des races* introduced
     in 1908 by governor-general of French West Africa William Ponty as a way of
     preserving ethnic particularism (Harrison 1988). Writing about French imperi-
     alism, McDougall speaks of the history of colonial policy (for example, through
     studying texts produced by the colonial state and its theoreticians) and of a histo-
     ry of the everyday life of colonialism. He argues 'that the question of the colonial
     management of religion by the secular state was no theoretical debate over repub-
     lican principles and the exigencies of imperial rule. Instead, it was a bitterly
     contested, local social struggle over cultural authority, physical public space, and
     the material resources that went with them' (McDougall 2010: 554).
10   For a similar excellent criticism of predominant approaches in the study of em-
     pires, see Barkey (2008: 4-23).

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Part 1

Historical perspectives
on colonial governance of Islam

Chapter 2
Governance of Islam in colonial Mozambique

Liazzat J. K. Bonate

2.1   Introduction

Adopting Bader's (2007) approach, this paper analyses governance of
Islam in colonial Mozambique from both external and internal
perspectives. The external governance perspective focuses on the
ideological underpinnings, administrative policies and legal regulations
of the Portuguese colonial government that impacted the Islamic religion
and the Muslim population, as well as the responses they generated. Three
points should be addressed from the start with respect to the Portuguese
colonial governance of Islam. First, despite the fact that Portugal's
presence in Africa lasted for almost 400 years, the paper concentrates on
the period between c. 1900 and 1974. It was only in the twentieth century
that a modern colonial regime was established, and for the first time
Portugal actually 'encountered' Mozambican Muslims face-to-face as such
and transformed them into colonial subjects. From their initial
confrontations with Muslims in the sixteenth century up until 1900, the
Portuguese pursued no concerted effort in that sense. Even Catholic
evangelisation was not as widespread and invasive as would be expected
from a state that had close-knit ties to the Church and upheld an official
cross and sword slogan based on the ideals of the Crusades and the
Reconquista. On the one hand, this was due to the fact that the presence
and impact of Catholic religious agents up until the twentieth century was
limited, while their relationship with local Portuguese administrators was
often strained to the extent that some were purged from Mozambique
territories in the mid-eighteenth century (Andrade 1955). On the other
hand, survival strategies and trade necessities forced the Portuguese to
adopt more accommodationist attitudes towards Muslim Africans, with
whom interaction was regulated through a nominal recognition of the
European suzerainty by some, who either paid or did not pay a symbolic
tribute, or more often than not, received a pension from the Portuguese
Crown. When these relations were unfriendly, the Portuguese built
fortresses to protect themselves. When they were relatively good, they built
small *feitorias* (Portuguese outposts or warehouses) and sent trading
vessels or caravans to them on a regular basis (Andrade 1955: 54-55). The
history of these relations, starting with Vasco da Gama's arrival in 1498

and continuing until the beginning of the twentieth century, is extensively documented in the archives of Portugal, Goa and Mozambique in a voluminous correspondence written in old Swahili-Arabic script (the lingua franca of the region). Of crucial importance is the fact that it was the Portuguese who had to learn and use this script, while Africans were not expected to know Portuguese.

Second, although the Portuguese colonial regime 'encountered' its Muslim subjects in the twentieth century, it took a long time for it to 'encounter' Islam as a religion in order to 'govern' it. Until the late 1960s, Portuguese rule had no distinctively Muslim or Islam-oriented policies, rules or regulations in Mozambique. Thus, compared to the French colonial assimilation and accommodation system, and especially to the British Indirect Rule, Portugal did not adopt or institutionalise specific normative models and laws, such as Islamic or customary laws with their respective courts, nor did it identify and co-opt particular Muslim groups who could channel and apply government policies and legal prescriptions directed particularly towards the Islamic religion and the Muslim public. It was not until the very end of colonialism that Portugal attempted to institutionalise Islam and take control of the Muslims of Mozambique. Even then, this was not a matter of religious governance, but a response to the independence movements. In this context, the concept of governance is especially relevant: as Bader (2007: 873) maintains, this does not only include regulations by laws and rules but also by a variety of means, in particular, by policies and ideology in a very broad sense. This chapter focuses on how general colonial legal and constitutional regulations, such as labour and administration laws and the Indigenato system, and ideological assumptions, including the concept of *Islão negro* and 'nationalisation' policies, impacted the lives of Muslims and of the Islamic community of Mozambique, and what responses and articulation dynamics they provoked.

Third, although the Muslim population of Mozambique consisted of three major groups – Africans, the mixed-race descendants of the earlier Indian immigrants and Indians as such – most of the Portuguese policies of the twentieth century had the greatest effect on the African Muslim majority. In addition, the twentieth-century Indian immigrants were often left outside the scope of Portuguese control because they remained 'foreigners' in Mozambique. This was in the sense that after the 1948 partition, those who came from British East Africa opted for British citizenship, while those originating from the Portuguese Indian colonies of Goa, Diu and Daman were given Portuguese citizenship.[1]

The internal governance perspective of this chapter focuses on the regulation of religious life by Muslim communities themselves (Bader 2007: 847). In the Mozambican context, this internal regulation was concentrated in the hands of African and Afro-Indian Muslims. The more

recent Indian immigrants remained largely to themselves and for that reason fall outside the scope of this chapter as well. As a matter of general consideration, however, it is important to highlight that Sunni Indians regulated their internal communal religious life within their own associations called Comunidades Moametanas or Muçulmanas Sunni. In contrast to the earlier Gujaratis from Daman, who intermarried with Africans, the twentieth-century Indian immigrants did not mix with Africans. Hence, from 1970 to 1972, despite repeated and insistent efforts by the SCCIM (a Mozambique branch of the Portuguese secret services called Serviços de Centralização e Coordenação de Informação, the Services for Centralisation and Coordination of Information), the Sunni Indians of Mozambique Island organised into the Associação Sunita Maometana da Ilha de Moçambique (Mozambique Island Mohammedan Sunni Association) and refused to accept Africans as members of this association.[2] Nevertheless, being mostly Sufi-oriented, they often sponsored public rituals of the African *tariqa* (Arabic singular for a Sufi order, *turuq* in the plural) and provided financial support for their mosques and madrassas (educational institutions in Arabic). They interacted more closely with the Afro-Indian mixed-race group than with Africans until the 1950s, though the caste and ethnic propensity would not allow them to consider these as equals to 'real' Indians. For example, in Lourenço Marques, they financially supported the Anuaril Isslamo madrassa built by an Afro-Indian named Ahmad Dulla in 1906, which was transformed into an association in 1925. The relationship between the two groups soured when Afro-Indians fell under the influence of Deobandi and, later, Wahhabi ideologies.

2.2   The Indigenato

From 1895 to the early twentieth century, the Portuguese undertook campaigns of 'effective occupation', resulting from the European Scramble for Africa, the 1884-1885 Berlin Conference and the 1890 British proposal on the future borders between Portuguese and British colonies in Africa. The campaigns envisioned conquering African territories militarily, taking full administrative and political control of them and delineating borders between Portugal, Great Britain and Germany (Botelho 1936: 351-398; Newitt 1981: 24-36; Axelson 1967). The main objective was to enforce Portugal as a colonial power in the face of competition from other European powers. In the words of Pedro Massano de Amorim, one of the main protagonists of the 'effective occupation', this meant:

> To subjugate gentiles [Africans], to eliminate rebellious chiefs, to open caravan routes for [the Portuguese] trade, to establish military

> posts, to make our [the Portuguese] dominion effective, to promote
> the payment of taxes, to open new ways of communication, to force
> [Africans] of the interior to produce a determined type of agricultur-
> al products, [...] and to educate the natives in order to make them
> useful [to the Portuguese]. (Amorim 1911: 210)

Following the 'effective occupation', the Portuguese began implementing
policies of forced labour, direct taxation and arbitrary punishment (laws
of 1899, 1904, 1928 and 1930). Together with the 1907 Portuguese Ad-
ministrative Reform, these policies laid the basis of a system known as
Indigenato, which was fashioned on the French Code d'Indigénat. The
1907 reform distinguished between African and European legal rights
and civil statuses. Africans became colonial subjects, living within the
jurisdiction of local 'traditional customs and usages' administered by the
appointed indigenous authorities, the *régulos/regedores* (Portuguese
small-scale kings, territorial chiefs), whose main function was to carry out
the orders of often distant Portuguese administrators. On the other hand,
Europeans became citizens of the metropolitan state and subject to its
laws. The Indigenato was endorsed by the 1930 Acto Colonial, the Carta
Orgânica do Império Colonial Português and the 1933 Reforma Admin-
istrativa Ultramarina (Administrative Reform of the Overseas Territories).
In essence, it remained intact until 1961, though it was formally abolished
in 1954.

Like France, Portugal adopted an assimilationist and civilising stance
towards its colonial subjects, who could opt for a status of *assimilado*
corresponding to the French *évolué*, provided they could prove to adopt
Portuguese customs, language and culture, including the European dress
code. Nevertheless, while the French system presupposed that a Muslim
could become an *évolué*, the Portuguese viewed Islam as an alternative
form of 'civilisation' to the European one, which threatened to indoctrinate
Africans with its 'de-Europeanising' trends. So when the regime intercept-
ed leaflets in 1937 depicting the 1896 Abyssinian defeat of the Italians at
Adwa, it became so alarmed that it endorsed the 1929 Legislative Diplomas
No. 167 and No. 168, requiring educational and cultural institutions to
obtain licences in order to function legally. Many mosques and madrassas
did not have such licences and were closed down, leading to violent
clashes between Muslims and local Portuguese administrative officials.
The 1930-1933 Portuguese Administrative Inspector for Indigenous Af-
fairs, Captain Armando Eduardo Pinto Correia found these kinds of
suppressive measures to be futile,[3] while the 1944-1952 inspector, Manuel
Metello, maintained that 'the closing of the mosques only served to fanati-
cise natives'.[4]

Moreover, the Estado Novo (1926-1974), driven by intense nationalism,
upheld the Catholic faith as a crucial marker of Portuguese national and

cultural identity (Cahen 2000a: 311-313). From 1930 to the 1950s, the regime conceived of the Catholic Church as the most adequate tool for its assimilationist agenda, which could 'nationalise' (*nacionalização*) and 'Portugalise' (*portugalização*) colonial subjects through mission schooling. The Church was expected 'to conduct gradually the indigenous people from the state of savagery to the state of the civilized, and form in them the consciousness of Portuguese citizens', as the 1930 law on education in the colonies stated. The education was declared to be based on Christian values with obligatory teaching of the precepts of Catholicism.

In 1940, the Estado Novo deepened its commitment to Catholicism by signing a Concordata agreement with the Vatican and endorsing the 1941 Estatuto Missionário ('missionary statutes'), both aimed at strengthening the Church's position in the colonies. As a result, in 1958, there were 2,239 rudimentary schools for Africans run by Catholic missions in Mozambique, which had a total of 2,389 teachers and auxiliary staff, and 299,782 pupils.[5] Of these students, 82,109 were studying in schools located in the northern Mozambican territories and run by the Nampula and Cabo Delgado Dioceses.

Because of the regime's belief in assimilation into European culture as a means for 'civilising', it assumed that the advancement of the missions would lead Africans to a 'natural' and steady disenchantment with Islam. For example, in his 1948 report on the Nacala region, Portuguese Inspector for Indigenous Affairs Hortênsio Estêvão de Sousa pointed out that Islam had a stronghold in Mozambique because of the absence of a Christian action, as the only Catholic mission and the only rudimentary school for Africans could not meet either African aspirations for 'civilisation and education' or tackle the influences of Islam effectively.[6] Like his predecessor, Pinto Correia, Estêvão de Sousa suggested increasing the number of Catholic missions and schools in the region. Metello recommended in 1952 expanding Catholic mission schools as well, arguing that 'natives' 'wanted to learn' but often had no other alternatives available than the Koranic schools.[7]

Despite the spread of mission schools, conversion to Islam in Mozambique between the 1930s and 1950s increased considerably, mainly due to the expansion of the Sufi orders and their African leadership. While African Muslims by and large resisted sending their children to Catholic schools, Islamic education and Koranic schools increased considerably. Pinto Correia noted that 'those who could not read or write in Swahili were rare'. This resulted from the pervasive presence of Koranic schools, functioning 'in simple huts', which symbolised 'their accessibility [to Africans] and to which Portuguese efforts [to launch mission schools] could not match up to date'.[8] In addition, Muslims resisted mission schools because children there were baptised without parents' knowledge, required to learn the basics of Catholicism and frequently given Christian

names registered in official identification documents, though they already had Muslim ones.

African Muslims of northern Mozambique could hardly become *assimilados*, not only because of the connection between Portuguese national-cultural identity and Catholicism, but also because the vast majority of them lived under the Indigenato rule of the old clans that provided most of the *régulos* within the new colonial administrative system. The legitimacy of these old clan *régulos* was built upon Islam and African traditions of chieftainship (Bonate 2007). The attempt to undermine the Indigenato with the 1954 law was unsuccessful, and the assimilation option was not opened to Muslims until 1961's overseas administrative reform, the Reforma Administrativa Ultramarina. This reform conceded equal legal rights to all citizens regardless of race, culture or creed but, as Vakil (2003: 272) argues, it could not live up to the challenge facing colonial rule with regard to Muslims. In other words, it failed to recognise Islam as a religion and African Muslims as cultural and political citizens of Portugal, a feat that would remain largely unachieved until the end of the colonial era.

2.3   Islão negro

From the time of the 'effective occupation', the Portuguese, like other European colonial powers, adopted an Orientalist approach to Islam that viewed the faith as unchanging, transcendent, textual, monolithic, immutable and ultimately ahistorical (Said 1995: 159-161, 278-300). It was understood with reference only to a set of 'classical' principles of 'orthodoxy', not as a living tradition that could be appropriated and given meaning to by people who 'used' it. A 'true' and 'orthodox' Islam was perceived to be 'Arabic' (or 'Asian'), while the Islam professed by Africans was considered to be a particular kind: an *Islão negro*, or 'black Islam', with 'indigenous traditions and customs'. Some Portuguese officials, such as Amorim (1911: 98) and Ernesto Jardim de Vilhena (1905: 55-56), even thought that African Muslims should be considered as 'Islamised' or 'slightly touched' by Islam, rather than full-fledged Muslims. They upheld an idea that Islam in northern Mozambique was 'mixed with gross superstitions' like fetishism, magic and other practices derived from African culture. The officials of the 1930s and 1940s shared similar views on an 'unorthodox', 'syncretistic' and 'superficial' character of Islam among Africans. Estêvão de Sousa wrote that 'on the first sign of misfortune, an [African Muslim] forgets his imam, goes to consult the healer and offers sacrifices to his ancestors'.[9]

Similar to the French, the Portuguese thought that Islam was 'brought' and 'imposed' on Africans by groups of 'Asian' Muslims, in particular, Persians, Arabs and Indians, all presumably coming from regions where

a 'true' and 'orthodox' Islam was a standard (Branquinho 1969: 415-16). Indians, in particular, were credited with the Islamisation of Mozambique, and some authors believed that they spread and dominated Sufi orders.

> The majority of the *tariqa* leaders were the 'Moors' from Daman (Gujarat), who had settled in Mozambique Island two centuries earlier, and who married into local Arab families...Because the 'Moors' were rich people, they practiced charity and sought to convert the locals [Africans]. Thus they neutralised ravages and bloodshed that the coastal [African] people practiced until then. (Carvalho 1988: 60)

But such an assumption was historically inaccurate, as it grossly overestimated the role of Asian and especially Indian Muslims in Mozambique. Africans were hardly passive or lacking in agency, and they adopted Islam on their own from the eighth century onwards, during the international slave trade of the nineteenth century, in particular. Similarly, Africans have been continually engaged in internal, regional and global debates on the nature of Islamic authority and 'orthodoxy' throughout Mozambican history.

Many Portuguese officials believed that Africans accepted Islam because of its 'malleability' and accessibility to 'their character'. Branquinho (1969: 415) pointed out that this 'malleability' resulted from 'biological' and 'spiritual' 'mixings': 'First, there was a physical mixing, a harmonious one', when Arabs, Indians and Persians married African women and 'founded a new improved and nobler race [than mere Africans]'. Second, there was a 'higher spiritual mixing' when the precepts of 'orthodox' Islam became 'syncretised' with African 'traditions and customs'. The reasons 'foreign Muslim missionaries' succeeded was due to their 'exploring psychological weaknesses of the blacks', who adopted Islam as a means of social mobility and prestige rather than as a faith.

The Portuguese *Islão negro* was inspired by the French concept of *Islam noir*. The latter was developed by French colonial officers in West Africa, such as Paul Marty and others, who emphasised that Islam was in fact a 'white' Arab, often fanatical, 'nomadic' religion, while in West Africa it was rather 'black', 'tolerant', 'heterodox', 'syncretistic', integrating African 'traditions' and 'customs' (Harrison 1988: 2-4, 99-136; Brenner 2001: 154-155, 164). In contrast to the French, however, Portuguese knowledge of Islam was quite limited. The French equated *Islam noir* with Sufism (or *maraboutes*, holy men). After identifying Sufism as the most widespread and influential Islamic tradition, the French set up strategies and policies of co-opting and institutionalising its main precepts and proponents in order to develop specific threads of Islamic governance in West Africa. In contrast, the Portuguese were unable to discern or

understand Sufism for a long time, despite the fact that it also constituted the most widespread Islamic identity of twentieth-century Mozambique. Already in the late nineteenth century, João de Azevedo Coutinho (1941: 67) and António Enes (1902: 87-93) witnessed the Rifa'iyya rituals, though identified the order as only a 'dance society'.

The Shadhuliyya and the Qadiriyya, the two omnipresent Sufi orders of twentieth-century Mozambique, were not acknowledged, either. In 1911, Amorim (1911: 142) gave only passing remarks on *tiqiri* (local vernacular for *tariqa*, derived from the main ritual of a Sufi order called *dhikr*, meaning 'remembrance of God' in Arabic) in Angoche without identifying the Shadhuliyya. In the late 1930s, Pinto Correia cited Rodrigues Lapa, a local administrator who had described the annual gathering of Muslims at Lunga, apparently for the Qadiri *ziyara* (the Arabic term for a visit or pilgrimage to the tomb of a saint), but it all 'represented an impermeable mystery' both to Lapa and Pinto Correia.[10] The studies produced in the 1950s and early 1960s by Catholic scholars attached to the Instituto Superior de Ciências Sociais e Políticas Ultramarinas (Higher Institute of Social Sciences and Overseas Politics) in Lisbon provided ethnographic evidence for the presence of the Sufi orders in Mozambique, but they did not recognise them as such. For example, Father Frederico José Peirone (1967) never mentions any Sufi order in his book, though it is possible to extrapolate information on the Qadiriyya from the text.

It was not until the late 1960s that the writings of Portuguese officials such as Branquinho (1969: 341-405, 423-27) and Fernando Amaro Monteiro (1993a: 96-100) brought the *Islão negro* concept in line with the French *Islam noir*. They did this by stressing the pre-eminence of Sufi orders in Mozambique, connected to East Africa and the Comoro Islands and deeply enmeshed in local culture, with their leaders purportedly representing a more 'traditional' and 'conservative' wing of the African Muslim leadership.

2.4   'Nationalising' Islam

After the failure of imposing Catholic 'Portugalisation' on Muslims, the Portuguese became more and more concerned with controlling *Islão negro* and 'domesticating' it. Especially after World War II, when the United Nations was created and the liberation movements emerged, the preoccupation with the external Islamic influences on its African Muslim subjects, emanating, in particular, from the newly independent states of Algeria, Egypt and Tanzania, increased considerably. Adriano Moreira, Minister of Portuguese Overseas from 1961 to 1962 and director of the Instituto Superior de Ciências Sociais e Política Ultramarinas from the late 1950s to the early 1970s, encouraged researchers such as José Julio

Gonçalves (1958), Peirone (1967) and Albano Mendes Pedro (1961) to address the influences of 'non-African' brands of Islam and find ways of neutralising these trends in Africa.

The most comprehensive efforts to 'domesticate' Islam – or, as the Portuguese officials put it, to 'nationalise', 'Portugalise' and isolate *Islão negro* from the influences of 'foreign brands' – were undertaken in Mozambique in the late 1960s. Said efforts were in response to African adherence to the liberation movements, notably after the creation of a special branch of the Portuguese secret services. The SCCI, as it was known, aimed at centralising, coordinating and distributing knowledge and information about the politics, administration and defence of the Portuguese overseas territories. It focused on a global socio-political analysis of the colonial situations through studies produced by specific sectors on the ground, such as military field officers, local administrators, secret police known as the International Police for the Defence of the State (PIDE, created in 1954) and the General Directorate for Security (DGS). As a result, the SCCIM's Mozambican branch elaborated a four-aspect strategy to tackle African and, in particular, Muslim support of the liberation movements (Monteiro 1993a: 275-276, 278). The strategy foresaw the following:

1. A social aspect, which concentrated on improving the living conditions of Africans, in general, and Muslims, in particular
2. A political and administrative aspect, focusing on reformulating administrative policies in response to African participation in liberation movements
3. A military aspect, which centred on combating the liberation movements on the ground
4. A psychological aspect, which was the most important with regard to Muslims of northern Mozambique and consisted of four phases:
   1. *Fase de detecção* (detection), aimed at detecting and becoming aware of Islam and Muslims in Mozambique
   2. *Fase de captação* (gaining control), intended to win over Muslims by showing public respect and protection of Islam and Muslims
   3. *Fase de comprometimento* (compromising), intended to compromise the reputation of Muslims by portraying them as supporters of the colonial regime
   4. *Fase de accionamento* (action), intended to make Muslims take action against the liberation movements.

From 1965-1968, the SCCIM began implementing the first phase of psychological action by collecting data through field research on Islam, in general, and Muslim leaders, in particular. Its objective was to obtain detailed information on Islamic networks and means of communication between various Muslim regions and poles of religious authorities, as well

as on their susceptibility to the ideology of independence (Monteiro 1993a: 280-281, 305-307). Simultaneously, a report called 'Conquista de adesão das populações' ('Winning the adherence of the populations') was circulated, which, as Alpers (1999: 172) points out, 'reflected a kind of psycho-sociological prescription for winning the hearts and minds of various sectors of the Mozambican population against the onslaught of revolutionary African nationalism represented by Frelimo'.

Because the northern Mozambicans were historically linked to the Swahili world, the first preoccupation was to find out whether they were in any ways attached to or under control of the Sultanate of Zanzibar. Though the Portuguese discovered that the Sultanate's Ibadhism had nothing to do with the Sunni-Shafi'i orientation of northern Mozambique, they were surprised to realise that, until 1963, the most important Muslim leaders of northern Mozambique were installed in their posts only after receiving a formal investiture confirmation from the Sultan. From 707 interviewed, at least 176 declared that the Sultan was still their imam, despite the fact that SCCIM surveys took place after the abolition of the sultanate in 1964 (Branquino 1969: 409).

As the deposed sultanate did not seem to pose any further threat, the SCCIM concentrated on 'domesticating' and 'nationalising' Islam by creating a state-sponsored Islamic organisation, a local centre of religious authority, independent and autonomous of such centres abroad. Initially, the possibility of a 'central command' of the *turuq* in Mozambique, from which a nationwide Islamic centre of authority could be extrapolated, was explored. However, it turned out that each *tariqa* led a quasi-autonomous existence and their respective *khalifas* (Arabic term referring to the local delegate of a Sufi order) were unwilling to obey someone from another *tariqa* (Branquinho 1969: 407-411). After failing to find ways of uniting the *turuq* into a single organisation and falling short of identifying a Mozambican *mufti*, Monteiro (1993a: 309-311) attempted to create a centralised Islamic organisation from scratch, which he initially called an *ijma* (Arabic for 'consensus') but later renamed the Concelho de Notaveis ('council of the notables'). Despite Monteiro's massive efforts to launch the council, it did not materialise because the second phase of the psychological action took too much time to implement. It ended in 1972, when the war between the Portuguese and the FRELIMO guerrillas intensified and military priorities took the upper hand.

Other ways of 'nationalising' Islam included encouraging the use of the Portuguese language as the language of Islam. This meant translating the key Islamic texts into Portuguese and promoting Koranic education and religious services in the language. With Monteiro's direct involvement, in 1968, the Portuguese regime obtained approval of 21 major Sunni Muslim dignitaries of Mozambique for the translated publication of the *Hadith* by Al-Bukhari (Monteiro 1993a: 283-284). Between 1969

and 1973, Monteiro led the administration in the direction of sponsoring Koranic education in Portuguese (Branquinho 1969: 412-415; Monteiro 1993a: 244). But the ineffective policies of succeeding Portuguese governors and the fight that the Nampula Catholic diocese put up against this project proved to be stronger than Monteiro's will. The Nampula Diocese in Mozambique District lived in an environment of continuous hostilities with Muslims, who not only refused to attend mission schools but sometimes burned down such schools, as in Mossuril (Monteiro 1993b: 97-99). The diocese pointed out that it would not allow Islam to gain more ground with the officialisation of the Koranic schools, and the provincial government decided to halt the project out of fear of further aggravating the enmity between the diocese and Muslims.

The second phase of the SCCIM's psychological strategy focused on actions aimed at demonstrating that the Portuguese regime knew and respected Islam and its leaders and was willing to preserve and protect the Muslim faith (Monteiro 1993a: 306-308). The phase also involved social, political and administrative dimensions of the Portuguese counter-independence policies, which were directed at improving African living conditions by building water pumps, sanitation, roads and other modern infrastructures, including stone-housed *bairros* (Portuguese neighbourhoods) in some Muslim regions, such as Inguri in the town of António Enes (contemporarily known as the city of Angoche). The improvement of the socioeconomic conditions in the colonies was also a result of the economic and political decentralisation policies implemented by Portugal in 1971. These effectively ended the Estado Novo politics of integration between the colonies and the metropole and permitted the channelling of colonial funds into local social programmes (Darch & Hedges 1996: 145).

In 1968, when Balthazar Rebelo de Sousa became the governor of Mozambique, a truly Islamic policy was being implemented. This included the image of the colonial power as the protector of Islam, expressed through the presence of the higher Portuguese officials in the important festivities of the Muslim calendar, in particular, Ramadan (Alpers 1999: 177, 179-181). There were media publications and radio and written addresses underlining positive attitudes of the colonial regime towards Islam and Muslims. The Portuguese regime also undertook the building, restoring and ceremonial public inauguration of mosques, such as of the important historical Gulamo Mosque at Mossuril, as well as the building of a mosque at the Catamoio Island of Angoche region by General Kaulza de Arriaga (Monteiro 1993a: 283). The colonial government also began sponsoring hajj in 1970, with an obligatory stopover in Lisbon en route to Mecca and back, where Muslims could be wooed by the authorities (Alpers 1999: 177-181).

The third and fourth phases of the SCCIM's psychological strategy aimed to involve Muslims in acts against the liberation movements, such

as creating Muslim militia and Muslim military units within the colonial army. Ultimately, these phases never materialised (Monteiro 1993a: 306-309), in part due to Muslim unwillingness and in part because of the growing impatience of the Portuguese with the advancing liberation movements and political instability in the metropole. The ever-decreasing morale of the colonial army precipitated the military coup of 25 April 1974 in Lisbon, signalling the end of Portuguese colonialism in Africa. The reform of the Constitution in 1971 and the introduction of the new overseas law, A Lei Orgânica do Ultramar, attributing honorific title of 'states' to Angola and Mozambique in 1972, could not halt this process.

2.5   Internal governance of Islam

Although Islam had been present since at least the eighth century, and Muslims of the Mozambican coast were firmly integrated within the area of Swahili and Indian Ocean Islamic influences, a substantial expansion took place during the nineteenth century due to considerable migrations and the region's involvement in the international slave trade. This expansion was intimately tied to the Swahili ambitions regarding the export slave trade. A network of paramount chiefs resulted from the region's participation in the international slave trade. Muslim chiefs incorporated into this network established the limits between themselves as the slave traders and those to be enslaved, as well as the respective territories within which these groups resided. The network of Muslim chiefs was embedded in its leaders' successful political manoeuvring and strategic reshuffling of shared matrilineal kinship ideologies. Thus, the internal governance of Islam was left in the hands of African Muslim rulers, be they male or female (Bonate 2007).

While the vast majority of Muslims were Africans, an Indian minority began emerging in 1508, when the East African and Mozambican territories were subordinated to the Portuguese viceroys of India. However, Alpers maintains that 'in 1600 there do not appear to have been any Indian residents at Mozambique', while 'in 1646 the total population of Vanyas [Hindu Banyan] was reckoned at about 30,000 individuals, with their headquarters at Diu' (Alpers 1976: 36). In 1752, the Portuguese territories of Mozambique were legally separated from India, and Mozambique Island became a colonial capital. Officially, Indian traders from Daman and Diu in Gujarat were permitted to settle in the Portuguese territories of Mozambique from that time on but, as Alpers points out, 'after the collapse of the Mughal Empire in the 1750s and the emergence of British Bombay', the numbers of Indian settlers at Mozambique dwindled. In the mid-eighteenth century, there were more than 200 Vanya residing but only fourteen Muslims, while in the mid-nineteenth century

the number of Muslim Indians was a mere five (Alpers 1976: 40-44). Only from the beginning of the twentieth century until about 1930 did the immigration of Indians increase again, this time coming from British East Africa (Leite 1996: 67-108, 2001: 13-37).

By the end of the nineteenth century, most of the descendants of these earlier Indian immigrants and their African wives effectively formed an Afro-Indian mixed-race group, whose religious identity was to a certain extent influenced by the Swahili Islamic perceptions. Nonetheless, the continued relationship with India and recurrent immigration from the subcontinent kept the flow of Indian Muslim cultural influences alive. The fact that Indians and their Afro-Indian descendants resided largely under Portuguese rule kept them separate from the bulk of Africans. It was also rare for an Indian to marry into an African Muslim ruling clan. As a consequence, the Islamic identities of the Afro-Indian Muslims were distinct from those of Africans, whose worldviews and identities combined Swahili tradition, matriliny, as well as land-related and ancestral spirits.

With the end of the 'effective occupation', African Muslims were conquered and colonised, while the old Indian families and their mixed-race Indian-African offspring became a part of the general population of the colony instead of being a particular group living within the sphere of Portuguese influence. This new context imposed a direct interface be-tween these groups of Muslims, claiming the same religious identity and competing for the same religious authority that could enable any of these groups to lead the internal governance of Islam.

The first confrontations between Indian descendants and African Muslims occurred at Mozambique Island following the arrival of the Shadhuliyya and Qadiriyya Sufi Orders in 1896 and 1905, respectively (Bonate 2007). The orders were brought along the regional Swahili net-works at the same period and practically by the same people as in the rest of East Africa. The island had a large historical concentration of Indians and Afro-Indians, especially on the continental part of the Cabaceira Pe-quena. When the island stopped being a colonial capital in 1896 after its transference to Lourenço Marques, Indian descendants were left without colonial backing and had to arrange for economic survival on par with the rest of the population. The new Sufi orders offered opportunities to gain religious authority and access to economic means through *tariqa* leader-ship, especially among the Qadiriyya.

Initially, most of the old African Muslim ruling clans were concentrat-ed on the resistance against the 'effective occupation', which left Indian descendants with certain freedom for appropriation of Sufi leadership. However, from the 1930s onwards, when the pacification and occupation of northern Mozambique was over, the ruling families embarked upon reclaiming Islamic authority, now associated with Sufism. Although the competition between them and the Indian-Africans resulted in a split of

the two orders into eight, the emerging African Sufi leadership took the upper hand and was instrumental in bringing about a major Muslim expansion and conversion to Islam throughout Mozambican territory during the twentieth century.

The Islamist or Salafist groups appearing in the 1960s further amplified the conflicts between African Sufis and mixed-race Indians, joining the ranks of the so-called Wahhabis and Deobandis. Two sheikhs who graduated from the Saudi Islamic universities – Momad Yussuf, a grandson of the prominent Qadiri *khalifa* at Mozambique Island, and Abubacar Musa Ismael 'Mangira', an Indian descendant from the southern Inhambane region – were at the forefront of these disputes. The tensions soon escalated into direct confrontations, notably when Sayyid Mujabo and Sayyid Bakr, two eminent Sufi leaders from Mozambique Island, visited the Anuaril Islamo Mosque in Lourenço Marques, where Mangira ridiculed them in front of an 800-strong congregation, labelling them 'ignoramuses' and proponents of the *bid'a* (Arabic term referring to abominable religious innovations) (Monteito 1993a: 413). At this time, the Portuguese, who had finally gained some insight into internal Muslim politics, felt that they could intervene according to their own colonial interests, while Muslims realised they could articulate their interests before the colonial power because it opened up to such a collaboration. Thus, when Sayyid Bakr brought his grievances to the Portuguese in 1971, stating that he was fed up with the emotional climate in which Muslims lived due to the controversies surrounding *bid'a*, and threatened to take action against the Wahhabis, or else orchestrate a simultaneous violent uprising in three districts of northern Mozambique, the Portuguese felt compelled to respond and take action (Monteiro 1989: 85). Aware of the extent of Sayyid Bakr's authority and forced to face a choice between Sufis (consisting mostly of northern Africans) and Wahhabis (comprising mostly southern mixed-race Afro-Indians), they chose to support the Sufis. As the independence war was already underway in northern Mozambique and because the SCCIM studies identified Sufi orders as holding a significant geographical, numerical and religious power in northern Mozambique, the Portuguese saw this as the best choice possible – particularly since their colonial rule was determined to co-opt the northern Mozambican Sufi leadership politically and gain its alliance against the liberation movements (Monteiro 1993a: 303-311). Like the French in West Africa, as analysed by Harrison (1988: 117) and Brenner (2001: 164), the Portuguese regime considered Wahhabis to be upholding a globalist and universalist outlook on Islam with deep-rooted pan-Islamic solidarity, and thus 'difficult to compromise by the European rule' (Monteiro 1993a: 89-90).

However, the Wahhabis, especially Mangira, sought recognition and collaboration with the colonial state, claiming that they were better educated, more modern than Sufis and therefore well-suited to be a nationwide

Islamic authority associated with Portuguese rule. Mangira suggested organising a 'round-table' discussion with the Sufis, in which once and for all it could be 'logically and manifestly proven who was wrong and who was right' (Monteiro 1993b: 93). As Monteiro points out, Mangira 'insinuated that the leaders of the *turuq* were incompetent' and not 'prepared or capable of making just and correct decisions in the field of Islamic faith'. Knowing that the colonial regime was thinking of sponsoring Koranic education in Portuguese, Mangira advocated building a 'new Islamic college for girls and boys in separate blocks, where the Portuguese language and Islamic doctrine in Arabic would be taught', though to no avail. During the last years of colonialism, the Portuguese showed public support to Sufis as opposed to the Islamists, such as Mangira.

2.6 Conclusion

Compared to the French and British colonial regimes, which were established to a large extent in the nineteenth century, the presence of the Portuguese in Africa lasted for almost 400 years. For the majority of that period, in Mozambique the Portuguese dealt mainly with coastal Muslim populations who were part and parcel of the regional Swahili world. The exiguous and vulnerable situation of the representatives of the Portuguese Crown in Africa led them to adopt a more reconciliatory and accommodationist relationship with African Muslims, without exerting a deep interference or control over the internal dynamics of the African societies, especially with respect to Muslim communal life and the Islamic faith, in general.

Though this situation was reversed with the actual imposition of the modern colonial regime in the twentieth century, Portuguese rule was not as knowledgeable of Islam as the British or the French regimes were, making it difficult to undertake policies and regulations that were specifically directed at and catering to Islam and Muslims. Nevertheless, the Portuguese regime's overall ideological approaches, as well as its general legal and administrative regulations and policy-making strategies, affected Muslims to a great extent.

Some of these approaches and regulations were influenced by the French colonial model. In particular, Portugal adopted an assimilationist approach and a system known as Indigenato, both fashioned on the French Code d'Indigénat. However, French assimilationism was more civil-legal and religiously neutral, bordering on secular, which permitted a Muslim to become an *évolué*, a person assimilated into European culture with access to European citizenship rights. In contrast, the Portuguese regime of the Estado Novo espoused Catholicism as the major marker of the Portuguese national and cultural identity and embarked upon assimilating or 'nationalising' its colonial subjects through the implementation of

Catholic education from 1930 to the late 1950s. With this, the Portuguese Muslim subjects in Africa were largely denied the right to become *assimilado*. This situation persisted until the end of colonialism in 1974, even though the definite abolition of the Indigenato occurred in 1961, following a short-lived attempt to do away with it in 1954.

After World War II, when the international context was dominated by the impending end of colonialism, Portugal continued its policies of 'nationalising' its colonial subjects with the view of preserving its colonial project despite the odds. This time, instead of 'nationalising' through conversion to Catholicism, the regime concentrated on isolating African Muslims from the supposed decolonising influences of the 'foreign' brands of Islam, domesticating them by creating national Islamic institutions and centres of authority and adopting the Portuguese language as the language of Islam. These seemingly informed policies of the last decade of the colonial era, especially with respect to the African Muslims and Sufism of northern Mozambique, were primarily dictated by a necessity to counteract the advancing liberation movements and prevent or delay the independence of Mozambique, rather than by a concerted long-term strategy of Islamic governance.

The Orientalist concept of *Islão negro* that the Portuguese officials embraced with respect to African Muslims was also influenced by a French idea of *Islam noir*, as developed by the French administrators' experiences in West Africa. But while *Islam noir* opened avenues for governing Islam by co-opting and controlling Sufi Muslims, representing the vast majority of African Muslims, *Islão negro* remained a mere ideological parlance rather than a guide for the development of religious governance policies until the late 1960s. This was due to the Portuguese regime's lack of insight into Islam and especially Sufism.

For this reason, the internal, intra-Muslim governance of Islam remained largely outside the radar of the colonial regime for the greater part of the twentieth century. This internal governance was undertaken mainly by African and mixed-race Muslims engaged in an intensive rivalry and competition over Islamic authority, first that of Sufi orders and later over the definition of Islamic 'orthodoxy', which pitted Sufis against Salafis. It was not until the late 1960s that Muslims in Mozambique were surveyed for the first time in history. The Portuguese studied them intensively and wooed them through various public means, allowing the colonial regime to develop some significant steps towards governing Islam, as well as to engage and take advantage of the internal Muslim rivalry for the sake of counteracting the encroaching independence movements. Nevertheless, the sudden end of Portuguese colonialism abruptly terminated these embryonic attempts to understand and 'govern' Islam in Mozambique.

Notes

1. H. E. Sousa (1948), 'Relatório da Inspecção Ordinária ao Distrito de Nampula, Província do Niassa' , Vol. 5, p. 1111, in Mozambique Historical Archives (hereafter AHM), ISANI Collection (hereafter ISANI), Caixa (hereafter Cx.) 77.
2. F. A. Monteiro, Lourenço Marques, 29/05/1970, SCCIM. 'Informação 11/71', in Archives Torre do Tombo, Lisbon, SCCIM Collection, Cx. 62, No. 12, 'Islamismo', 11/11/1966-02/07/1970, pp. 115, 118-129.
3. A. E. P. Correia (1933), 'Província do Niassa: Relatório da Inspecção Ordinária as Circunscrições do Distrito de Moçambique, périodo, 1930-1933', in AHM, ISANI, Cx. 76.
4. M. Metello (1952), 'Relatório da Inspecção Ordinária ao Distrito de Cabo Delgado, período 1944-1952', in Circunscrição da Quissanga, p. 65, in AHM, Fundo de Governo Geral Collection (hereafter FGG), Cx. 2136.
5. Governo-Geral, Província de Moçambique, 'Relatório de Aplicação do Estatuto de Indígenas Portugueses', 1958, pp. 17-20, in AHM, FGG, Cx. 2125.
6. Sousa, 'Relatório da Inspecção', Vol. 4, 'Circunscrição de Nacala', p. 752.
7. Metello, 'Relatório da Inspecção', Circunscrição da Quissanga, p. 65.
8. Correia, 'Província do Niassa', Vol. 1, pp. 33, 36 and Vol. 2, pp. 80, 103-104, 173.
9. Sousa, 'Relatório da Inspecção', p. 752, Cx. 77.
10. Correia, 'Província do Niassa', Vol. 1, Capítulo VII. Posto da Lunga, III, pp. 99-100.

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Chapter 3
Educating Sudanese ulama for colonial sharia

Shamil Jeppie

By the early years of the twentieth century, there was nothing remarkable about Egyptians travelling south beyond their country's borders to visit Khartoum. After all, much of the Sudan had once been considered part of Egypt, conquered by the ruling family and its military. In 1837, the elderly Mehmet Ali Pasha, the founding Ottoman-Egyptian Wali, had himself undertaken an arduous journey through his southerly possessions. In the nineteenth century, large numbers of Egyptians settled in the Sudan. During the reconquest of the Sudan in the late 1890s, thousands of Egyptian soldiers were part of the British-led campaigns to overthrow the Mahdist State.

So it was no surprise when a prominent Egyptian travelled to Khartoum, for the connections had been forged in war and conquest over many decades and, if one takes a longer view, many centuries. There was, of course, movement in the other direction as well: Sudanese who travelled voluntarily for various reasons to Cairo; studying at the mosque-university of Al-Azhar was among the reasons for northern Sudanese to go further north. Education was a field that bound many respectable inhabitants of the two regions firmly together. Al-Azhar held a major place in the imagination of educated elites and ordinary Muslims along the Nile valley and indeed throughout Muslim Africa. By the mid-nineteenth century, Al-Azhar had living quarters for students from Sudan named after the regions of Sinnar, Berber and Dar Fur. Going to Al-Azhar and returning from there with certification held tremendous practical and symbolic power, power that was both religious and worldly. Especially because of the roughly fifteen-year Mahdist interregnum in Sudan in the early twentieth century, it was a relative rarity for a local scholar to have been fully educated at Al-Azhar, so an Al-Azhar education was always looked highly upon. During the Mahdiyyah (Sudanese religious movement), there were only seven scholars with Azhar backgrounds who had any prominence (see Sulayman 1985). Disseminating the learning acquired at Al-Azhar was part of the duties of a recently graduated alim (singular of ulama, a Muslim learned in religious matters). This would often entail establishing a madrassa at home or at a mosque in the town or village of the alim, or becoming a qadi (judge ruling in accordance with the sharia). Attempting to create a full-fledged madrassa in the image of Al-Azhar was

unimaginable. Creating anything larger than a *khalwa* (school for teaching the Koran) would be counted a major and rare success. It was not possible for a single individual to do; it required many ulama and even state involvement. It would also entail involvement from Egyptian ulama and from Al-Azhar itself. Therefore, religious education was clearly a cause for traffic between Cairo and Khartoum, no matter what kind of political arrangements existed between the two territories. As we shall see in this chapter, fostering religious education and training in the image of Al-Azhar and under state patronage was of vital importance because of the internal political arrangements that the British hoped to foster within the Sudan. For the British, making use of the Egyptian connection was of great importance in establishing their colonial hegemony. While this was valuable in the early years of colonial government, it became less so later on; indeed, the Egyptian connection became a problem and the colonial authorities attempted to sever ties and limit Egyptian influence.

In January 1905, Imam Muhammad Abduh, the Grand Mufti of Egypt, arrived in the capital of the Anglo-Egyptian Sudan.[1] The condominium, the joint authority, provided him with special transport for the final leg of his journey and gave him a high-level official welcome reception when he arrived in Khartoum. The Secretary for Justice in the Sudan, E. Bonham-Carter, and the Inspector-General, Rudolf Karl von Slatin Pasha, led the reception party that included a host of Sudanese dignitaries, such as Sayyid Ali Al-Mirghani, leader of the Khatmiyyah *tariqa* (Arabic singular for a Sufi order, *turuq* in the plural); Sheikh Muhammad Harun, an Egyptian who was nevertheless Chief Qadi of the Sudan; Sheikh Al-Tayyib Hashim, Mufti of the Sudan; and Sheikh Muhammad Al-Badawi, head of the local ulama.

Abduh attended Friday prayers at the main mosque in Omdurman and witnessed its derelict condition. As capital of the Mahdist State, Omdurman was badly damaged when it fell to the British in 1898, and the main mosque and other buildings were in serious disrepair. The Egyptian Grand Mufti announced that he was committed to seeing the mosque restored. More importantly, he announced the need to establish an educational institute for the teaching of Arabic and the sciences of Islam in the same fashion as was being done at Al-Azhar in Cairo. Omdurman's main mosque was the place where such an institute would be founded. Indeed, it was reported that he started the process by donating an amount of twenty guineas towards the project and inviting charitable foundations in Egypt to contribute to it.[2]

This chapter focuses on the education and training of a new group of ulama and qadis to work under British sovereignty in the Sudan.[3] Educating qadis to work in the new colonial sharia legal system was a key objective of the British investment in Islamic education in the colony. The new Islamic academic institution in Omdurman would have an important role

in the provision and expansion of Islamic education and supply of qadis to the judiciary. A major official intention was that these scholars would primarily staff the sharia courts in addition to teaching and preaching an acceptable Islamic message to the population. The British were extremely uncertain about their dominance over the country. It was their largest possession in Africa, and their resources were stretched given that they were governing such large parts of the continent (and indeed the globe). They may have won the military battles and wiped out the Mahdist state at the end of 1898, but could these foreign rulers ever achieve a lasting level of acceptance from the native Muslim population? The distance between them as white, Christian outsiders and the local populations was so vast that ways had to be found to make them acceptable, at least in the more influential circles. This question of the *depth* of their acceptance, of their hegemony over the Sudanese, would repeatedly return to the top of the government's agenda. This fundamental concern of the British was reflected in the concerns of all the government departments and at every level of their administration. An important means of fostering acceptance was to make alliances with the influential ulama of the northern Sudan, especially those scholars who had opposed the Mahdiyyah; as for those ulama who were involved on the side of the Mahdists, they had to be brought in to serve the new colonial order. This is precisely why the British promised these scholars that they would respect the practices, religious values and laws of Islam. As Lord Cromer once told a group of local leaders:

> We have brought the Holy Places within a few days' journey of Khartoum. We have assisted the men of religion. We have built and given assistance for the building of new mosques all over the country. The qadis and others have received a free and thorough education in the Koran and in the tenets of the Mohammedan religion. (Lloyd 1933: 333)

It was easy to make such declarations though, in practice, it was far more complicated and fraught with challenges. But if they had a group of ulama whom they could trust and who implicitly recognised British sovereignty and the limits of their role as scholars, then there was a good basis for the future of British rule. Therefore, organising the ulama into an identifiable, accountable body and ensuring their reproduction into collaborative qadis into the future was a primary task of the British colonial authorities. The British needed to be clear about who spoke for the ulama. The numerous Sufi *turuq* and their sheikhs appeared to be far too diffuse and thus difficult to bring into a reliable alliance. The exception from the outset was the Khatmiyyah *tariqa*, because its leadership had opposed the Mahdists. There was great confusion about the range and diversity of Sufi *turuq*, but

their leaders in the vast rural Sudan were uniformly dismissed as fanatics 'living on the superstitious ignorance of the people'. The British also associated the latter in various ways with Mahdism. Lord Kitchener, the first governor-general of the Sudan after its conquest, saw them as 'responsible in a great measure for the rebellion'.[4] The British approach, it would appear, was to work with scholars of the law firstly and exclude or marginalise unmanageable Sufis (Voll 1971); the Khatmiyyah were the exception because of their opposition to the Mahdist movement (Karrar 1992: 93-102). But ulama without concrete forms of organisation would be outside colonial hegemony or far more difficult to direct and control, almost like the wretched Sufis who were 'teaching different Tariks, and dealing in amulets, etc'. Better then to invest in their mobilisation and training and give them the highest recognition possible, as well as government salaries. The colonial order desired legibility. Order, hierarchy and identifiable men and places were absolutely necessary to invest in and cultivate if colonial hegemony were to be secured. As Kitchener wrote in his first memorandum in which he condemned the Sufis: 'Those among the people who desire to study religion should do so at the capital, where a school will be established under proper supervision.' In the same memorandum, he lays out the structure of new administration whose first task was to accumulate as much information on the conquered land as possible.[5]

3.1   A Sudanese Azhar?

Despite Muhammad Abduh's reputation as an anti-establishment activist and nationalist, he remained a respected scholar among leading British figures in colonial Egypt (Hourani 1970: 133-135). Lord Cromer, the British consul-general in Egypt, who had made contacts with several senior Egyptian ulama, would write warmly of Abduh in his memoirs as a 'man of broad and enlightened views' who recognised the 'necessity of European assistance in the work of reform' (Baring 1908: 179). Possibly on the recommendation of Cromer, British authorities in Khartoum made contact with Abduh, being a reformist thinker, the moderniser of Al-Azhar and Grand Mufti. Abduh advised them on appointments of Egyptians to the new judiciary they were establishing for the Muslim populace.[6] His trip to Khartoum in 1905 was therefore more than a visit by the curious Grand Mufti to meet his Muslim brothers and learned counterparts; his sojourn had political significance for ulama-state relations in the Sudan. His visit added impetus to the project of establishing a respectable and recognised institution of Islamic education – acknowledged as a legal entity by the state and accepted by the ulama and Muslim public, in general. This was the school at the capital under 'proper supervision' that Kitchener had written about in early 1899.

By 1901, discussions between colonial officials and the ulama had begun, but progress towards the establishment of Al-Maahad Al-Ilmi, as it would be called, was slow. The colonial state had found enthusiastic ulama to work with, and they constituted the so-called Board of Ulama (Voll 1971: 215). This small group of willing ulama were compensated with government salaries; furthermore, some came to earn symbolic regalia of recognition in an invented order of awards issued annually by the governor-general. Funding the institute was a fundamental challenge. Supporting an entire institute over the long term had larger budgetary implications than covering a few salaries. Apart from budgetary concerns, there was the challenge of finding agreement on the founding documents and operational principles, the rules and regulations upon which the institute would be established and operated.[7] Furthermore, there were potentially divergent views among the ulama themselves on the curriculum, with an Al-Azhar-educated man like Sheikh Muhammad Al-Badawi as head of the Board of Ulama and chairman of the institute's committee. Al-Badawi's views were more conservative than those of Abduh and his followers. He insisted on sticking within the established framework of a *madhhab* (school of jurisprudence) and following a strictly literal interpretation of the Koran. He had also served as a qadi during the Mahdiyyah,[8] and was perhaps somewhat ambivalent about participating in the colonial educational project. Apart from juristic differences and disputes over the curriculum, the collaborating ulama were not used to the colonial concern with writing down rules for the school; in their experience, the transmission of Islamic teaching did not depend on a lengthy charter of articles specifying the duration of the academic year, minimum age of entry, student discipline, who was authorised to speak in the name of school and so forth. Nonetheless, such matters were of significance to the colonial authorities in their attempt to establish a regime of learning over which they had control. It was difficult to monitor the Arabic-language syllabus, but controlling the broader and overarching framework of the institute was definitely possible.

It took many years of negotiation between the colonial officials, particularly those in the legal department, and the ulama to agree on the multifaceted aspects entailed in the formation of a college for training Muslim legal practitioners and teachers. The purpose of the institute was in many ways determined by the fact that it was a function of the legal department, not the education department. A process that had started in 1901 only came to fruition more than a decade later. By the end of 1912, the core issues had been agreed upon, and teaching began in 1913 on the premises of the Omdurman mosque. Abduh's 1905 visit certainly had some influence on the process, but he died later the same year, never getting to see the establishment of the institute.

Al-Maahad Al-Ilmi came to be viewed by the Sudanese ulama as the

beginnings of a Sudanese Al-Azhar. Sudanese students no longer needed to travel to Cairo when they wanted to advance their Islamic learning beyond memorising the Koran or reading texts on Maliki jurisprudence. This was favourable to the British, who believed that the potential existed for the Sudanese to get the wrong ideas in Cairo, returning to the Sudan infused with radical, anti-colonial views. The ulama at Al-Maahad attempted to follow the model of Al-Azhar in some way, and it is not hard to imagine why this would be the case. Al-Azhar was an important symbol of Islamic learning, Abduh had an impact, they had contacts with their Egyptian ulama counterparts and a few leading Egyptian Azharite ulama were employed in the Sudan. Sheikh Muhammad Shakir and Sheikh Mustafa Al-Maraghi were two of a larger group of important Egyptian ulama to get positions in Sudan around the time of the discussions about the formation of the institute. The former was the first Grand Qadi of the Sudan, followed by Al-Maraghi, who began as a qadi in Dungula Province and got the Grand Qadi post in 1908.[9] Maraghi was particularly close to the Sudanese ulama involved in the institute, and both were students of Abduh (Sulayman 1985: 112-113).

Among the Sudanese, it was Sheikh Abu Al-Qasim Hashim who assumed responsibility to lead the ulama in formulating the founding principles and policies of the institute and its curriculum.[10] He was a key figure in the formulation of the first set of regulations in 1912 and its extended, revised version of 1925. Sheikh Abu Al-Qasim Hashim was born into a religious family in the early 1860s. His father was a qadi in the Khartoum and Berber regions. Both his parents were from religious families and were themselves religiously educated, so he was exposed to the transmission of Islamic learning from an early age. As a boy, he memorised the Koran and began studying Islamic texts that were widely used in the region. He received his education at the feet of various local sheikhs, including a period of residence at a mosque in western Berber. It appears that he never travelled outside the Sudan to study. He was 22 years old at the outbreak of the Mahdist jihad in 1885. As a literate and learned man, he worked during the Mahdiyyah in the Mahdi's diwan (a court or office), crafting letters for the Mahdi himself. After the Mahdi died, he was employed by his successor, the Khalifah Abdullahi. Sheikh Abu Al-Qasim Hashim bore the hardships of the military assault on the Mahdist State, but never took up arms himself. Following the fall of the Mahdists, he got involved in establishing mosques away from the capital, but he was also appointed as a qadi by the British victors. He steadily rose from being a regional qadi to having a more significant position in Khartoum. Given his role as a scribe for the Mahdist State, it is perhaps surprising that he came to be such a trusted figure in the new British legal machinery, not to mention in the formation of a new school to train future qadis. By 1912, enough time had gone by since the fall of the Mahdist State

to allow him to head the ulama and lead the government institute.

The 'Sudanese Azhar' was British in conception and implemented by an Egyptian-Sudanese elite. The colonial authorities found willing Sudanese ulama to establish and run this project for them. If there is any doubt about its being a British creation, then its funding is evidence of the substantial British investment in it to produce men with proper knowledge for the colonial state. Substantial government grants were given to the institute. Indeed, the institute got most of the state's allotment to mosques. Salaries for the Board of Ulama, the teaching staff and other costs were covered by the colonial state. Donations and income from endowments covered only a small percentage of the required revenue. This financial arrangement lasted from the earliest period of the formation of the board, through the beginning of the first classes, right through the 1940s and up to Sudanese independence.[11]

Three levels of education were established at the institute: basic, secondary and advanced, each four years long. Age at registration was stipulated as no younger than twelve and no older than fifteen. The aim was to have as many students proceed to complete the twelve-year course of study as possible. The curriculum consisted of courses in Tafsir, Hadith, Tawhid, Fiqh, Usul al-Fiqh, mathematics, geography and Arabic language, including literature and rhetoric.[12] The works studied indicate a strong and continuing Maliki orientation among the ulama. An additional subject was 'legal registration', which was meant to prepare students for when attaining positions in the sharia courts. The British kept the Hanafi personal status laws that were introduced to the Sudan during the Ottoman-Egyptian period of rule. In this way, students were prepared so that they could apply Hanafi jurisprudence in personal status matters. A library was established and filled with the requisite classical source texts and commentaries – probably sent from Cairo – that were necessary for the lecturers and students to fulfil the requirements of the institute's courses. The library had its own separate set of rules and administration. The curriculum and organisation were far beyond anything that any previous or current school in the Sudan was offering – it was new to both students and ulama alike. Moreover, the rules and detailed procedures were all innovations. While the formally articulated articles governing the institute were comprehensive and specific in defining the way the institution should be run, the realities of institutional life would tell another story. A somewhat different script was followed in practice, as both novices and teachers would follow parts of the official procedures and not others; they would willingly consent to some procedures, while others could simply not be adhered to.[13] 'Discipline' is a word that the legal department used very often to describe challenges in the 1930s. But this reflects a broader problem of discipline among students and youth – in reality, it is coded language for the political agitation and unrest that

was sweeping through urban Sudan at the time.[14]

By 1917, at Al-Maahad Al-Ilmi there were ten teaching assistants, a number that more than doubled by the late 1930s. We have no data on these instructors. In 1925, the first fully qualified students graduated from the institute. The three students had been at the institute for twelve years, the normal term of study required to earn the Alimiyya certificate. In this year, enrolment was at 221 and would remain roughly the same into the early 1930s. But by 1935, the institute boasted 787 students and 46 graduates, the largest numbers in a single year thus far.

Al-Maahad Al-Ilmi was run by local ulama, who apparently had a fair amount of autonomy and control over the curriculum. The fact that it was founded and fostered by the colonial state did not seem to matter to the ulama. The state needed to have a body of ulama engaged in reproducing its own kind while simultaneously remaining under state control, and the ulama worked within these limits. Nevertheless, it is necessary to remember that the institute was not the only body where Islamic teaching and learning took place, and the British were acutely aware of this fact. Much of the northern Sudan has a long tradition of Islamic teaching and learning at the *masjid*, *masid*, *khalwa* and *zawaya*.[15] These were seldom centrally controlled or organised, but mostly rooted in a local setting where there was a teacher and an accessible, shady place to gather. There were many such places of learning, and Sufi *turuq* played a key role in their growth and continuation. The Sufi *turuq* were closely linked to the *khalwa* and, as Ali Karrar (1992: 137) has put it, 'the most important tariqah-linked institution was the khalwa or Koranic school'. The most famous of them was one in the Gezira (a state south of Khartoum) that belonged to Ahmad wad Isa and his son Ibrahim. It became part of the Khatmiyya *tariqa*'s loose network of *khalwa*; the other was the masid at Umm Dubban, outside Khartoum, linked to a branch of the Qadiriyyah. Both these masid go back to the nineteenth century and developed into large settlements in which the schools were the attraction; the most important activity was learning and teaching the Koran, with boys of all ages, from near and very far, a permanent presence. Visits to the tombs of the revered persons in the history of the *tariqa* were a major attraction for others.[16] There was no age restriction on entry and participation, no fees were paid, and it would appear only males participated in the classes and life at these schools. Emphasis was on memorisation of the Koran. Wooden tablets were employed for writing out lessons and memorising them and then washed off. In some cases, after memorisation was completed, introductory Maliki works, such as the *Mukhtasr* of Khalil and the *Risalah* of Abi Zayd, were also studied. Usually, there were very few books in circulation, and manuscript copies of texts were carefully guarded and used only by teachers. Since these schools were most often connected to a *tariqa*, there was also emphasis on the liturgies and practices of the specific *tariqa*,

though initiation into one was not a prerequisite for participation in the school.[17] The organisation of these schools was therefore very different from the colonial Al-Maahad Al-Ilmi, which in its organisation, structure and curriculum was in fact a modern school. The school was a distant Sudanese reflection of the modernity that Abduh tried to introduce to Al-Azhar.

The colonial state could keep track of Al-Maahad Al-Ilmi, for the principal and council had to report to the legal department. By contrast, keeping track of the largely informal but longstanding learning spaces spread throughout rural Sudan was impossible. Trimingham (1946: 117) estimated that in the early 1940s, 'some 1,500 khalwas are scattered about the Sudan'. There were attempts early on by the education department to transform these schools into instruments of utilitarian literacy, but that project went nowhere. Nonetheless, it was possible to take control of education, even Islamic education, near or in the capital and at the highest levels. Through the institute's graduates, there was a possibility that these older schools could be brought into the state's field of surveillance and management in the future.

The colonial authorities could never wait for Al-Maahad Al-Ilmi to develop into an effective instrument among the vast numbers of *khalwas* and *masid*. Their initiative in Omdurman was therefore not the only educational initiative of the colonial state. It was a very specific intervention directed at a section of colonised Sudan that was believed to be crucial to making colonial rule and religious authority go hand in hand. Establishing colonial hegemony was, of course, far more complicated, costly and layered. The Al-Maahad Al-Ilmi initiative focused on securing the loyalty of the ulama, as well as preparing qadi functionaries and teachers for the colonial sharia courts and system of Islamic education throughout the country. Meanwhile, another line of education was preparing another kind of functionary. A secular system of education was deployed to train an urban elite in Khartoum at Gordon Memorial College, which was founded in 1902, a decade before classes began at Al-Maahad Al-Ilmi (Currie 1934, 1935). Within this college, an intensive two-year programme to train qadis for sharia courts began in 1903. This was only a small part of its activities, for the college was meant to develop into a full-scale modern university.[18] Since Al-Maahad Al-Ilmi was still being discussed, it seems that training of qadis was taking place at Gordon College. Between 1906 and 1931, 83 qadis graduated from Gordon College.[19] A law school focusing on English Common Law would be established there in 1935, and the qadi school would be closed down, probably because Al-Maahad Al-Ilmi was producing qadis by this time. Gordon College was a British creation without having to rely on the consent of locally rooted elite such as the ulama. British officials conceived of their college as a kind of 'Eton of the Sudan', producing a new Sudanese elite that would be loyal and

find jobs in the colonial bureaucracy. Anglicisation shaped the ethos and content of the college, and graduates were meant to enter the civil service upon completion of their courses at Gordon (Sharkey 2003: 40-66). They would constitute the *effendiyya* category in the Sudan – the junior and mid-level civil servants who were the interface between the colonial state and the Sudanese populace. Gordon was a 'virtual *effendi* machine' (Sharkey 2003: 65). Students and graduates of Gordon College looked down on their counterparts at Al-Maahad Al-Ilmi, whose graduates were well aware of this snobbery, being viewed as backward. Those at Gordon College felt privileged and superior, with their English education and future jobs in the colonial bureaucracy (Ibrahim 2008: 82-87).

3.2   Jobless qadis, employable sheikhs

During the 1920s, the colonial state was obsessed with devolution, the surrendering of powers to local authorities. In 1920, Lord Milner issued his report on his mission to Egypt and Sudan, which recommended the use of 'native authorities' more extensively in the articulation of colonial rule. The ideology of 'indirect rule' gripped the authorities in Khartoum, and they energetically attempted to transform Sudan's administration in this direction. In subsequent years, the language and practice of indirect rule would influence all aspects of the administration of the country. The qadi courts were seen as increasingly out of the control of the state, as so-called sheikhs' courts were promoted. These were tribunals of native or tribal authorities that exercised judgement based on a mixture of Islamic and local custom. There were some grounds to the view that the qadi courts were increasingly out of control, but there was also panic on the part of district-level officials reporting to the capital.[20] The emphasis on indirect rule had its educational effects. As one senior official put it:

> [E]ducational policy must conform to administrative policy [...] our educational policy has hitherto been to provide a system of educa-tion – *kuttabs*, primary schools, secondary schools and the Gordon College – which turns out natives competent to fill various positions in the centralised bureaucracy.[21]

Nonetheless, it was necessary to strengthen education of the 'indigenous type', which is 'fully adequate for the simple needs of the personnel of a native administration'. Ulama should only receive elementary-level training so as to provide functionaries for the sheikhs' courts, and the *khalwa* would thus be closely aligned to the work of the native adminis-tration. It was suggested that it should be at the physical headquarters of the sheikhs' courts in the provinces. As a result, the *khalwa*, which were

despised by the colonial state, gained new significance in the 1920s and 1930s, while the 'proper school at the capital' – Al-Maahad Al-Ilmi – was given no significance in colonial reports and correspondence. In the 1920s, the school was only beginning to graduate students with the Alimiyya certificate. In a 1932 report on a high-level meeting on 'Sharia matters and the Maahad', the institute is described as 'merely the Omdurman Mosque School [...] but it is generally looked on (or at least the Ulama would like it to be looked on) as the religious university of the Sudan'. Students are described as aged anywhere 'from ten to senility'. This disdainful tone spoke volumes about how the colonial authorities viewed the institute, but nothing could be done to close it or reduce its scope.[22]

As devolution became the colonial strategy of rule, the Mohammedan law courts that had been established were closed down and replaced by native courts. Where the graduating qadis would work became an issue of great concern for graduates of both Gordon College's Sharia College and Al-Maahad Al-Ilmi, as well as for the state. Officials monitored the relative popularity and acceptance of the sharia courts and the native administrative courts in various provinces. They kept a close eye on both the qadis and the 'Maazuns', notaries who registered marriages and divorces in the sharia courts. The latter were often thought to be more of a problem than the qadis in opposing the closure of specific sharia courts.[23] The official vision was that by the end of the 1920s, the native courts would be operating successfully and nearly all the Mohammedan law courts would be closed down. Between 1927 and 1930, ten sharia courts were suppressed.[24] There was tremendous opposition to the closure and replacement of the sharia courts, and the state was bombarded with petitions and protests. Both the intelligentsia and the uneducated citizenry, alike, reminded the colonial authorities that non-interference in religion and 'the establishment of sharia courts and the fostering of education are the principal things for which the people owe gratitude to the Government'. One of the arguments presented was that the 'Sharia qadis are themselves natives of the Sudan and should be used'. But as the legal department declared: 'The Sharia courts are independent of the administrative authorities, their procedure is tiresome and tedious, their outlook is narrow and legal.'[25] The Grand Qadi, the Egyptian Sheikh Muhammad Amin Qura'a, expressed the confusion and exasperation of members of his fraternity most succinctly.

> To entrust the sheikhs of tribes with Sharia powers implies the transfer of this power (although not intended) from native hands, who have shown efficiency in their work, to another native hands [sic] who are unlikely to do good work at all [...] The sequel of granting this Sharia power to the sheikhs of tribes would be to curtail the useful native hands.[26]

The language he used is completely deferential in pleading for continued recognition.

3.3   Some concluding reflections

Utilising the historic Cairo-Khartoum connection through such sympa-thetic figures as Sheikh Muhammad Abduh and his students was of practical and symbolic value in the first phase of constructing the colonial legal-cum-educational project. That connection became of less signifi-cance after his death and as the state had to begin to deal with myriad local challenges that could not be addressed by recourse to notables from Cairo. Nonetheless, the Grand Qadi of the Sudan remained an Egyptian throughout the colonial period. A new category of young secular-educated men was emerging in Khartoum, as new ulama were being produced in the heart of the colonial state itself. The former group were in close contact with their counterparts in Cairo, and nationalist discourses were develop-ing in this traffic between Cairo and Khartoum. The ulama and qadis were less significant in the development of nationalist discourses, but they remained under surveillance as potential sources of dissent. The discourse of sharia would remain a significant element in northern Islamic discours-es about the meanings of a Sudan without colonial rule.

Drawing on experiences in South and South-East Asia, British colonial practice ensured a policy in the Sudan of integrating as much of the local systems of rule, as they imagined them, to be their own instruments of rule.[27] This was policy and practice throughout the 1920s and 1930s. There were officials with deep personal knowledge of British India, the extensive administrative experience there impacting their experiments with Mo-hammedan law in the Sudan. The most eloquent proponent of indirect rule in Africa, Lord Lugard, had an earlier career in colonial India before his arrival in East Africa, just as Lord Cromer had a career there sand-wiched between two periods of service in Egypt, with the latter giving him a major role in the first reorganisation of the Sudan after its reconquest from the Mahdists. Arriving in Khartoum and promising local ulama that their religion, law and culture would be protected were not empty promises grounded in uncertainty, but bold gestures firmly based on working models implemented elsewhere in the British colonial world. Colonial practice travelled great distances, over time and space, and the comparative study of how diverse Muslim societies came to be adminis-tered by colonial sharia is worth pursuing. There was clearly a traffic in ideas from Sarawak through India to Sudan and to Northern Nigeria via London, and perhaps also directly. Twentieth-century qadis speaking Arabic and local languages travelled in search of knowledge and judicial work while foreign, white, Protestant rulers speaking English and com-

municating with the qadis through interpreters enabled this movement to foster their own colonial administrative agendas. Sudanese qadis were sent to Nigeria to teach there and train their counterparts in Islamic jurisprudence and judicial practice appropriate to the colonial context.[28] A legal or civil secretary in Khartoum would cable Cairo; from Khartoum, an assistant would be sent to Kano, Nigeria, reports would circulate and Sudanese qadis were off to new posts in northern Nigeria.

Reginald Davies, from the intelligence department, went to Northern Nigeria from Khartoum in 1924 and returned to report on his observations. In his report, he offered a definition of native administration, writing that it:

> consists in the utilisation by the ruling power of existing, or after resuscitating them, of pre-existing native administrative institutions and their development on lines suited to the genius of the people which possesses, or possessed them.[29]

This is a very close approximation to how Ashis Nandy has crisply defined the operating procedure of colonialism.

> The real danger of colonialism is that it tends to build on the existing culture and takes advantage of existing divisions and ambivalences in the subject society. In the process, colonialism re-prioritises the various elements in the cultures of the colonised. Technically, these cultures are not disturbed; they are re-ordered. Elements that are recessive become dominant; those that are dominant become recessive. (Nandy 2006: 42)

The British were clearly committed to offering Islamic education and judicial training in order to secure their dominance over the colony. In this process of preparing Islamic scholars and judges, they were possibly giving the Sudan more of a deeper and specific kind of Islamic legal consciousness than even under the Mahdiyyah. But this is where the British backtracked. The beginnings of modern nationalist resistance mobilisations made them attempt to bring the less 'Islamic' and more 'local' elements into much greater prominence in their strategies, but they could not roll back the Islamic educational process at Al-Maahad Al-Ilmi, the academic institution that they themselves had started. The ulama heading it had to continue to make claims about its relevance and importance, while the colonial authorities had to show their respect and promise to increase the budget, look into employment prospects of future graduates and offer gestures of interest and concern. The ulama ensured its survival even as major political changes were sweeping through the country, the region and the world. It would remain the major institution of higher

Islamic studies in the Sudan. It never became the imagined 'Sudanese Al-Azhar', for increasing numbers of Sudanese students continued to travel north to study at the real one in Cairo. Nonetheless, Al-Maahad Al-Ilmi continued to be a highly respected place of learning for a vast part of the ordinary northern Sudanese public, long after the departure of its colonial sponsors. It was transformed into the Omdurman Islamic University in the 1960s.

Notes

1   Abduh graduated from Al-Azhar in 1877 and proceeded to teach there. In the 1880s, he was sent into exile. He became Grand Mufti of Egypt in 1899 and proposed reforms to the curriculum at Al-Azhar, some of which were accepted and implemented. In 1905, he resigned from the body concerned with the reform of Al-Azhar. See Hourani (1970: 130-160).

2   There appears to be no comprehensive report of Abduh's Sudanese trip, but various sources provide snippets of his visit, including Rashid Rida in his 1931 *Tarikh al-ustadh al-imam Muhammad Abduh* (Cairo: Matba'ah al-manar bi-misr).

3   This contribution is the third work in a series of papers exploring various aspects of Islamic law in colonial and post-colonial Sudan.

4   PRO FO 78/5022-13244; Lord Kitchener, 'Memorandum to Mudirs', Enclosure in No. 1, also reproduced in Abu Shouk and Bjørkelo (2004).

5   Lord Kitchener, 'Memorandum to Mudirs'.

6   Bonham-Carter to governor-general, Khartoum, 15 August 1904, in F. R. Wingate Papers, SAD, 275/6/1-52.

7   'Memorandum of the Secretary of Justice relating to Al-Maahad Al-Ilmi in Omdurman' in Al-Haj (2007: appendix 3).

8   On Badawi, see Sulayman (1985: 84).

9   The missionary Bishop Gwynne, who met Maraghi in 1905, recalled that he was very popular with the British judges who had great respect for him, and he: 'on his part, always cherished the close relationship and their friendship [...] It was through Sheikh Maraghi that I got in touch with Sheikh Mohamed Abduh on his visit to the Sudan' (SAD, Misc., 466.9.1-3).

10 For a short biographical note on Sheikh Abu al-Qasim, see Bashiri (1991: 31-34). Abu al-Qasim succeeded Sheikh Muhammad Al-Badawi, who was the first president of the Board of Ulama.

11 See the Legal Department Report on 1946; see also Al-Haj (2007).

12 On the curriculum, see Al-Haj (2007: 131-140), where the author discusses the works that were included at various levels in the institute's programme of study.

13 The complete *Lā'ihah nidhām al-tadrīs* of 1925 is available as an appendix in Al-Haj (2007); a close reading of this document would be worthwhile.

14 See the Secretary of Justice's 'Report on Omdurman Maahad Ilmi', Legal Department, 16 September 1946.

15 These terms resepectively refer to mosques, mosque schools and schools run in the homes of teachers. See Ibrahim (1986: 305-319; for condominium period, see 347-354).

16 A sociological study of Umm Dubban is found in El-Hassan (n.d.); for full citation, see list of references.
17 A very good description of various aspects of the *masid* and *khalwa* schools and their links to Sufi *turuq* can be found in Karrar (1992: 137-144).
18 'By 1908, Gordon College offered a higher secondary school, a training college for judges in the Mohammedan Courts, and a School of Engineering and Surveying' (Currie 1935: 365).
19 Annual Report, Legal Department, 1937.
20 I have written on this subject of the courts and indirect rule (see Jeppie 2009; also Willis 2005).
21 R. Davies (1930), 'Further steps in devolution', NRO, CIVSEC 42.A.2, Vol.1. Davies was the Assistant Civil Secretary who, five years earlier, had visited Northern Nigeria to investigate the system of devolution there and made comparisons with the situation in the Sudan. For his Nigerian report, see Abu Shouk and Bjørkelo (2004: 95-109).
22 CIVSEC 42.A.2. Vol II, 'High level meeting held on 7 December 1932, on "Sharia matters and the Maahad"'.
23 'Sharia vis-a-vis native admnistration in Kordofan Province' 21 November 1931. CIVSEC 42.A. 2. Vol II.
24 Annual Report, Legal Department, 1937.
25 Ibid.
26 'The Grand Qadi Mohamed Amin Koraa to the Legal Secretary', 1 November 1927. CIVSEC 42.1.1. 'M.L.C. and devolution'.
27 H. A. MacMichael, the governor-general, approvingly quoted the reflections of Sir C. J. Brooke, Raja of Sarawak, that had already been made in 1871: 'The common mistake Europeans make in the East is to exalt Western Civilisation almost to the exclusion of the native system, instead of using them as mutually corrective.' NRO, CIVSEC 1.9.30. Draft by MacMichael 4 March 1921. See also MacMichael (1954).
28 In *Sudan Republic*, Henderson (1965: 122), writes that: 'Qadis from Khartoum were seconded in the 1930s to the emirates of northern Nigeria for the religious and legal training of their personnel, and were so successful and congenial that the last of them, Shaikh Awad Muhammed Ahmad, Principal of the School of Arabic at Kano, was appointed in 1960 to be the first Grand Qadi of the Northern Region.'
29 R. Davies, 'Note on native administration in Nigeria' 22 January 1925. NRO, CIVSEC A.1.9.32.

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Chapter 4
Ruptures? Governance in Husaynid-Colonial Tunisia, c. 1870-1914

Julia Clancy-Smith

4.1   Introduction

In a stunning development, the French state announced in 2007 that the Institut Catholique de Paris was organising instructional courses specifically tailored for the nation's imams (Schmidt 2007).[1] The seminars would teach Muslim leaders in France's numerous mosques how to inculcate secular, republican values and norms among their followers, the vast majority being from migrant communities and the largest by far from the Maghreb. This strange twist in the cultural politics of immigration and religion followed years of acrimonious debate over the veil in France (and Europe) that culminated in the 2004 ban on the wearing of conspicuous signs of religious affiliation in public schools (Scott 2007). The next year, the centenary of church-state separation was celebrated in France to mark the passage of the 1905 law. That the two long-standing *bêtes noires* of the republic – the Catholic Church and Islam – have been recast as collaborators in a state-financed enterprise to promote the idea of the citizen seemed not only curious but also somewhat surreal. For historians of modern North Africa, the announcement conjured up the nineteenth century, although the principal historical actors, at times locked in three-way struggles, had been reconfigured in novel ways to serve the needs of the present. Nevertheless, for the Maghreb, and particularly for colonial Tunisia, the fourth major actor was absent – the large Sicilo-Italian community residing there long before the protectorate, whose numbers ironically grew rapidly after 1881, but whose legal status, determined by the 1896 accords between France and Italy, placed them in a special politico-legal regime.

Juxtaposing the 2007 announcement with the pre-colonial and colonial periods, it becomes clear that key elements of the equation are roughly similar: minority communities fashioned by waves of settlement; social integration through education; religion as locally lived; legal regimes and the state. For the early protectorate in Tunisia, expatriate residents represented the spoils of at least a half century of highly diverse forms of immigration that included large pockets of border-crossers in every sense of the term, including individuals and families who had crossed back and forth between Islam and Christianity. This alone should give us pause and

take us back – deep into the time before colonialism – in order to rethink the notion of rupture associated with imperial interventions and occupations (Clancy-Smith 2011).

Most studies of nineteenth-century imperialism regard the imposition of formal colonial rule as a moment of disjunction, of near total discontinuity – when armies invade, treaties are forced upon unwilling local leaders, laws and institutions imposed and foreigners arrive to take control of land, resources and the instruments of coercion. And, in many respects, France's 1881 military invasion, and 1883, when the Treaty of La Marsa created the governing institutions of the protectorate, did constitute such moments. At the same time, European occupations of Muslim lands elicited armed, violent and, in some places, prolonged opposition that proved decisive for the future shape of colonial rule. These twin processes mean that rupture is almost universally associated with the state and with analytical approaches privileging the state. This position incubates the chronological scaffolding employed to periodise imperial histories: the construction of a temporal binary of before and after: pre-colonial and colonial. This binary calls forth another: Europeans (settlers or colonisers) and Muslims (or colonised) that frequently operate as signifiers for the dichotomy between the modern, on the one hand, and the traditional or pre-modern, on the other.

This chapter seeks to problematise, through a process of disaggregation, the concept of rupture in dynamic association with notions of pre-colonial and colonial, and Europeans and Muslims, through a close historical-ethnographic investigation of the Ottoman Regency of Tunisia in the late nineteenth and early twentieth centuries. It argues that the protectorate, superimposed upon the Husaynid State and Dynasty (ruled c. 1705 to 1957), preserved to some extent former practices, policies, ways of doing things and social arrangements during the two subsequent decades (from roughly 1881 to 1900). Rather than clean breaks, I am after the mobile, unstable, contradictory and contingent; processes that bleed into other processes are my prey. The first part surveys some of the problems in the current literature on Tunisia before and after. It questions the notion of a fixed or stable colonial state, proposing instead colonialism continually in the making – an inexhaustible and often unstable succession of inventions, adjustments, contradictions and manoeuvres. Needless to say, the official transcript generated by officials, jurists and apologists rarely invoked the torque of these countervailing forces when issuing, implementing or defending policies that owed much to the nagging weight of the pre-colonial past, to diverse forms of resistance from below and to the fact of people in motion.

The chapter's second part offers an alternative approach for disaggregating, and therefore getting closer to, the issue of ruptures and continuities. It explores the most contentious, intimately related struggles of the

early protectorate: beylical and *habous/awaf* properties (Islamic endow-
ments) and their social uses and the status of immigrants. These case
studies illuminate the tortured relationships among the four principal
actors, which themselves were disparate and protean in their responses
to both internal and external pressures: protectorate authorities, indige-
nous Tunisians, notably the Husaynid Dynasty, Catholic missionaries and
resident non-French communities. Its method is to triangulate between
different actors to propose that the Italian presence not only shaped the
protectorate, notably its imperial mindset, but also policies and practices
towards Islam and Muslims.

4.2   Problems and protectorates: Why Tunisia?

Recent literature on imperialism has paid considerably more attention to
the processes of decolonisation and end of empire that, while closely in-
tertwined in cruel and paradoxical ways, should not be conflated (Le Sueur
2001; Connelly 2002; Shepard 2006).[2] The extended, drawn-out process-
es attendant to becoming a colonial state, which demanded appropriating
pre-colonial systems of rule (for Tunisia, Husaynid political culture and
governance), has drawn less scholarly scrutiny at least for the French
Empire. In conventional historical treatments, the becoming tended to be
erased by the dual narratives of triumphant colonialism pitted against
ascendant nationalism (Matri 2008; Marouf 2007; Nada Auzary-Schmaltz
2008).[3] This is true not only for Tunisia but also Morocco, among other
possible examples, although considerable disparities existed between
these two French possessions, largely due to different pre-colonial state
structures. Moreover, the label 'protectorate' tends to homogenise by ig-
noring the critical matter of timing; historical context was fundamental
for Morocco, notably the nature of European immigration after 1900 in
relationship to the unfolding colonial state. It is hardly surprising that
nationalist historians slighted transitional moments, with their fluid
uncertainties, in research undertaken immediately after independence.
In addition, the earlier division of labour within the historical profession
meant that scholars trained primarily in the histories of France and the
French Empire took up the story of colonial regimes only in 1830, 1881 or
1912 (Clancy-Smith 2006a; William Roger Lewis 2006).
    Another lamentable gap in the scholarship hampers our ability to probe,
measure and comprehend the constant, if uneven, interplay between
stabilities and mobilities during moments of rupture and transition – the
dearth of commercial, business or financial histories. Empire is seen as
an essentially exploitative enterprise, although displaying a range of
methods for the appropriation/expropriation of resources, both human
and natural. Yet historical studies of companies, banks and corporations

already present *before* colonialism, such as the Sardinian Rubattino Transport Company in Tunis that also operated during the protectorate, are lacking (Dougi 1995; Melfa 2008).[4] In addition, during the past decade, historical work has emphasised the cultural dimensions of imperialism with a mere nod to the inescapable fact that colonial possessions were characterised by distinctive bodies of law and legal procedures due to the deep imprint of the pre-colonial past. Thus, the continual dialogue between social and cultural processes and legal domains needs to be recognised.

In sum, unexamined teleological assumptions about the colonial order in the Maghreb, and how it came to be, are still with us. Rather than emphasise failure to maintain independence, a slightly different approach takes stock of what the Tunisian state had achieved on the eve of colonialism in terms of reforms of state, law and society and, above all, how Husaynid governance was intertwined with non-Muslim communities. This perspective questions conventional wisdom in the secondary literature, which interprets the Husaynid State as a mere puppet or shell government after 1881 (Perkins 2004). If this were so, why then did French officials initially emulate Husaynid political and religious economy (Bowen 2007)? And why did the new president of the new republic, Habib Bourguiba, exert so much energy after 1957 to destroy the architectural legacy of his predecessors? In other words, the extent to which the older state continued to be regarded by subjects and non-subjects alike as a bundle of valuable cultural resources after 1881 invites reflection.

As the first protectorate, Tunisia operated as a sort of colonial guidebook for later indirect rule in Muslim states – Morocco, first and foremost, and perhaps by mediated filiation, Mandate Syria after World War I. Whether Tunisia served as a template for British-ruled Egypt is a question worth posing because, as we now know from comparative historical work, European imperial powers emulated each other, whether covertly or explicitly. And what about Algeria? It served both as a model, and by the late nineteenth century, more as a counter-model. For Islam in Tunisia after 1881, Algeria represented an abject lesson in what not to do (McDougall 2006). Greatly aiding this realisation was that some Algerian officials, such as Louis Machuel, who disapproved of policies towards Islam, Muslims and the Arabic language, relocated to Tunisia where they influenced early protectorate structures and institutions (Clancy-Smith 2006b; Keller 2007; Machuel 1889).[5] (This steady current out of Algeria to other parts of the empire provides additional evidence for Bader and Maussen's discussion of travelling colonial models in this volume.)

Finally, if the Mediterranean had become a space – more a series of borderlands – largely, but by no means exclusively, dominated by British and French navies, armies, merchant fleets and communications, the notion of a nineteenth-century colonial sea should be questioned since

this concept empowers the Great Powers in ways far beyond what was actually occurring on the ground.

4.3   Approaches: Somewhere between the micro and the macro

Which approach, or set thereof, best translates the fraught nature of the transition – or transitions – from a more or less autonomous Muslim state to a protected colonial possession? If micro-history has proven a powerful tool for cultural and social history, studies on empire have only recently embraced this methodology. Multi-sided historical ethnography – with attention to fleeting facts, ostensibly trivial events, petty detail, the mundane and experiential – furnishes an alternative because the story, like the devil, is frequently in the details (Trumbull 2009). A seemingly inconsequential fact – that protectorate officials dared not banish annual Sicilian Catholic processions – forces open larger social worlds and political struggles. This perspective allows us to grasp how and why policies, either proposed or actually implemented, for Muslim subjects in education, health or work were the product of apprehensions, bordering on permanent hysteria, regarding Italian labourers, schools and social welfare establishments. Whether explicitly stated or not, Islamic governance from 1881 until World War I was often shaped by the socially heterogeneous, but numerous, Sicilo-Italian communities in Tunisia. The dynamic and logic of these constantly fluctuating four-way struggles emerge starkly through an approach that privileges the micro- and meso-levels of analysis without neglecting the macro – or the big historical envelope in which events played out.[6]

Triangulation reveals that colonial moves against the Italians, or after 1901 the Catholic Church, had to take into account Tunisia's highly diverse indigenous Muslim and Jewish populations. All of these elements, it is argued, shaped Islamic governance after 1881, limiting not only what French officials could do – or not do – but also forging the colonial state itself as well as the inevitable socio-political resistance generated. What units of analysis merit close-up ethnographic investigations? For Italian communities, school water closets (i.e. bathrooms) constituted one site of contestation; for Muslims and Catholics, buildings, sacred springs and property deeds represented conflict zones. These relatively small disputed places were themselves the product of migratory processes entangled with cultural norms of gift-giving, patronage and the socio-moral uses of property.

4.4   Legacies and poisoned chalices

The protectorate inherited a number of things. First, the colonial regime
faced an exceedingly tangled regime (or regimes) of legal pluralism that
took decades to sort out. For a long time prior to 1881, European consular
authorities in North Africa and elsewhere 'made it up' as they went along
when London or Paris failed to provide coherent imperial policies. Officials
at the foreign office or the Quai d'Orsay frequently proved oblivious of or
indifferent to what was transpiring in Mediterranean ports among their
representatives, nationals or protégés, whose personal status and well-
being were theoretically governed by bilateral treaties as well as the Ot-
toman Capitulations. Indeed, some consulates in Tunis did not even
possess copies of the treaties concluded with North African rulers that
contained the rules of the game (Clancy-Smith 2011: 199-246). And many
populations claiming long residence in Tunisia – the Greeks, for example –
were blissfully unaware of their special legal regime because their treaty
of protection differed substantially from the French-language version
(Kazdaghli 2006). Finally, there was a well-established Catholic mission-
ary presence for which the beys had acted as benevolent patrons and
landlords, from the 1840s on. Indeed, many church-held buildings for
schools and clinics had been gifts or loans from the Husaynid family; in
a sense, Catholic missionaries had become protégés of a Muslim dynasty
(Clancy-Smith 2003).

   Tunisia's geographical positioning, a strategic choke point in the central
Mediterranean corridor where the velocity of people in motion was at all
times very high, subverted stable or facile sorting out, whether in the
realms of formal laws or commonly shared ways of doing things. People
in motion always thwart or bedevil state efforts to impose socio-legal
categories that are devised to manage populations and resources (Van
Schendel & Abraham 2005). As elsewhere in the Ottoman Empire, pashas
serving as the nineteenth century's version of the IMF and World Bank
arrived to exploit Tunisia's financial vulnerability and encourage subprime
crisis and collapse. By 1869, the Tunisian state had been driven into
bankruptcy and an international debt commission was created soon
thereafter. European creditors ultimately claimed much of the country's
resources through forced structural readjustments, a drearily familiar
chain of events at work throughout the Middle East in precisely the same
period whose human cost was high.[7]

   The protectorate did not only inherit, but also poached upon the
modern structures in place starting from Khayr al-Din's years as prime
minister (1874-1878), if not before. These included significant reforms in
Islamic higher learning, notably the Sadiqi College founded in Tunis in
1874, which educated a sophisticated, political class well on the way to
varying nationalist sensibilities and identities (Sraïeb 1990). Just as sig-

nificantly, the colonial regime's repertoire of imperial performances drew upon those conveying Husaynid dynastic legitimacy; these performances persisted after 1881, the most critical being the *bay'a* (the investiture), which was a two-part act, the first private, the second public. Starting in 1850, the beys had adroitly invited European consuls to participate in the public investiture that took place in city streets; protectorate officials continued the practice. In addition, Husaynid rulers traditionally assumed prominent religious functions during Islamic festivals, particularly Eid; after 1883, the residents generally shared in these performances alongside of the reigning beys. Nonetheless, the critical question of how Tunisians read this dual ceremony remains unknown. Symbolic performances of power were directly related to socio-spatial continuities as well as colonial urban interventions.

Much of the protectorate machinery was situated in the heart of the medina – in the Dar el-Bey – and *not* in the modern grid-like city; this fact furnishes critical clues. The new city's origins were pre-colonial and spontaneous; as the population of *intra-muros* Tunis became too dense, settlement and building occurred pell-mell in the marshy plain between the Sea Gate and the lake connecting the capital city to La Goulette, the port, and the Mediterranean. Moreover, the new city's denizens after 1881 were a very mixed lot indeed (Aïth Mansour Amrouche 2000). In the medina, religious affiliation did not necessarily determine residence. Italian and a few Tunisian Jews had lived outside the *hara* (Jewish quarter) for much of the nineteenth century; impoverished Catholic Maltese had resided in some majority Muslim quarters in the medina before 1881 (Sebag 1998; Memmi 1953). Therefore, the classic kind of colonial city, such as post-1912 Rabat – where municipal legislation, notably building and health codes, created urban apartheid – was less in evidence. Nevertheless, certain neighbourhoods with high concentrations of families sharing common culture, language and often professions became known as Little Malta or Little Sicily.

Directly related, naming was also a significant, although unstudied, arena for understanding governance. Taxonomies for the Husaynid and early colonial periods betray considerable instability and confusion: Muslims, Jews, *indigènes* (the indigenous), Arabs, Berbers, Moors, Bedouins, Twansa (inhabitants of Tunis), Turks to name some of the most conventional categories of local or imposed identity (Ben Achour 1989). As always, racial designations were complex; the Maltese and Sicilians were tagged as 'African' by their European social betters throughout the nineteenth century. But social class at times trumped everything else; members of the large beylical family, with whom some colonial officials maintained intimate social ties, were not necessarily identified as only Muslims but also as urbane aristocrats. Finally, the transition to protectorate came just at the high-water mark for Orientalism. Schneider's no-

tion of Orientalism in one place – in the many 'Italies', north and south –
redirects our attention to the Mediterranean islands whose principal ex-
ports in the long nineteenth century were its own men and women
(Schneider 1998; Burke & Prochaska 2008; Khuri-Makdisi 2010).

What about the poisoned chalice of peoplings during the pre-colonial
era? In the older literature on modern colonialism, European expatriates
were considered a boon for imperial projects. Later research identified
these people as poor whites, hybrids or cultural hyphens, etc., and theo-
rised about the complicated ways in which they either solidified or dis-
placed the boundaries (social, sexual or moral) of colonial rule (Cooper
2005). But how to characterise the pre-colonial subsistence migrants and
other troublesome newcomers who had called Tunisia home since the
1820s or 1830s? [8] Labels such as 'Italian' are problematic because they are
anachronistic; no single Italian community existed in Tunisia (or else-
where), but rather congeries of anarchists, masons, mafia members,
radical socialists, Garibaldians, bourgeois secular Jewish traders from
Livorno, pious Catholic noblemen and land-hungry peasants.[9] Proto-na-
tional identities and political affiliations did not match up: there were pro-
and anti-French parties among the Tunis Italians, pro-church factions and
violently anti-clerical groups. The terms 'cultural creoles', 'Crypto-Euro-
peans' and 'Euro-Tunisians' suggest some conceptual envelopes for these
folks, although they are rather messy envelopes indeed, which is the point
(Planel 2000).

The diverse trajectories of people in motion demonstrate that many
immigrants became protégés of one or another European state, and
subsequently through permanent settlement, turned into city residents,
neighbours, business partners, patrons or clients, etc., along lines that
defied neat mapping by religion or ethnicity. Some realised their dreams,
others remained socially marginal for generations and yet others rose to
the top of the heap. Specific ethnicities became European or not-quite-
French under French rule; some, though by no means all, eventually be-
came colonial landowners, while others eked out a living as day-labourers;
a few acquired French nationality, which was severely restricted until
World War I (Finzi 2003; Clancy-Smith 2007a). As was true around the
Mediterranean Basin and in the transatlantic worlds, uncounted numbers
of people came to the Maghreb, stayed for a while, and then moved on,
either returning home or striking out for uncharted destinations. High-
velocity population movements inevitably provoke anxieties among gov-
erning elites.

4.5   The protectorate: Making it up

While the Husaynid political class in Tunisia emulated Egypt under
Muhammad Ali and his successors as well as the Ottomans in terms of
state modernisation, they inexplicably did not undertake a census; an
Egyptian census was carried out in the pre-colonial era, probably influ-
enced by the British example in South Asia (Owen 1996). One statistic
encapsulates the politics of demography for the period of transition.
During the first decade of the protectorate, 88 per cent of Tunisia's resident
Europeans were Italians who numbered in the tens of thousands by 1896,
although accurate statistics are impossible to obtain; Sicilians continued
to arrive from the island where severe drought conditions prevailed for
years (Auguglioro 2008). In the words of Italian prime minister at the
time Francesco Crispi, Tunisia was an 'Italian colony occupied by France'
(Perkins 2004: 44). Given this, it is hardly surprising that the protectorate
did not carry out a census until 1906 – 25 years after the French army
invaded. This was in keeping with earlier Husaynid policies about what
not to do in a situation of accelerated and politicised immigration. For the
same reasons, the protectorate prudently waited for a full quarter of a
century before going about the business of counting heads; the 1906
census was only a partial survey, which contrasts mightily with French
Algeria, where a census was undertaken soon after 1830. A critical tool of
modern government, whether imperial of national, French colonial
aversion to establishing a population statistical regime in Tunisia speaks
volumes about the centrality of the non-French presence to the protec-
torate and its governance of Muslims (Saurin 1900).

French officials in Tunisia attempted to deploy Algerian precedents:
civilian rule prevailed in the north, but the south was placed under per-
manent military occupation. Moreover, the army faced years of deter-
mined, armed opposition that erupted in the border regions between Al-
geria and Tunisia during the spring of 1881 and persisted in the Sahil and
south until 1883. For the northern provinces, the system of *controleurs
civiles* replicated the earlier Husaynid provincial administration, which
had depended upon *qa'id*s (i.e. governors), drawn from locally prominent
families, to administer justice, collect taxes, keep the peace and ensure
the flow of politically important news to the political centre. Moreover,
colonial labour structures and policies followed patterns of work already
in place, although this legacy was often ignored in colonial studies. In his
dissertation, Loth (1905: 148) claimed that '[i]n [colonial] Tunisia, the di-
vision of work according to national or cultural characteristics has been
rigorously developed'.

Thus, the protectorate did not merely superimpose newly devised
machinery upon existing structures. Rather, the offices created, and the
officials who staffed them, mimicked or doubled some of those already in

existence, although the claim was that these colonial institutions were novel, modern and rational. As was true in French Algeria post-1830, one of the first tasks was to inventory various kinds of property, urban structures and patrimony (Matri 2008: 97-102).

The spatial dimensions of governance communicate critical, if multivalent and contradictory, messages and meanings about the exercise of power. As mentioned above, principal civilian institutions were not centred in the new city but significantly in the Dar el-Bey, dating back to the early seventeenth century. The Turks had chosen the site because it was near the Kasbah, where the army was quartered, as well as being adjacent to a congregational mosque, a prestigious madrassa, major guilds, manufacturing enterprises, and souks. Expanded under Hammuda ibn Ali (r. 1782-1814) with Italianate decorative elements, the Dar el-Bey oversaw military, administrative and religious affairs. The court resided there for part of the year, notably for the Moulid and Ramadan, but the complex also boasted a hall of justice (*bayt al-diwan*) and throne room. Thus, household bureaucracy was conflated with religion, justice and law. Ahmad Bey (r. 1837-1855) installed the prime minister's offices there, employing once again an Italianate style and probably Sicilian masons. Muhammad al-Sadiq Bey (r. 1859-1881) added spacious salons and reception halls in the European mode for state ceremonies (Matri 2008: 142-164).

The protectorate eliminated the residential aspects of the Dar el-Bey while retaining its executive importance. Judicial functions, the Imprimerie Officielle, police and the secretariat were installed there, but some older Tunisian offices remained as part of the doubling strategy. Significantly, Arabic was systematically used for official correspondence, albeit as a junior partner to French, being part of the mimicry strategy that contrasts greatly with Algeria. While most institutions of Islamic governance were located in the very heart of the medina, the resident-general's headquarters were situated in the former French consulate, which stood in the new city and predated 1881. Directly across on Avenue de France stood the cathedral, whose placement represented a symbolic statement about church-colonial state relationships that turned into a supreme irony after disestablishment.

Because of the incessant movement of peoples between Algeria and its neighbours from 1830 on, the legal playing field in Tunisia had come to include Islamic law, beylical law, capitulatory concessions, consular courts, codes and practices and international treaty law. One other critical domain should be flagged since it raises additional questions about law in colonial contexts. Both Algeria and Tunisia were occupied by French armies, which meant that military law entered into the mix, more of a muddle, of competing or conflicting legal systems; the vast numbers of military deserters from the African army who relocated to Tunisia (and

Morocco) further complicated things. French courts appeared in Tunis from 1883 on, and French law theoretically applied to all foreign residents, which encouraged other nations, although only after years of intense negotiations, to close their consular courts. Nonetheless, when viewed from below, the protectorate's legal system remained multi-centric in the extreme, particularly when it came to loving the wrong person or immigrants.[10] Colonial officials constantly quarrelled over what status Algerian Muslims resident in Tunisia merited, or if marriage between a Tunisian Jew, who was also a beylical subject, and an Italian Jew could be legally recognised (Messaoudi 1999).

If protectorate authorities had difficulty reconciling military, beylical and colonial legal systems, they increasingly targeted Islamic laws and local practices governing property rights and use. By 1900, colonial obsessions with the growing Italian farming community induced a dramatic shift in policies towards tribal lands and the Islamic endowments. To offset the Italian rural presence, French settler colonisation to Tunisia was vigorously promoted back in the metropole. The influx of modern sector farmers from France brought unbearable colonial pressures on villages and villagers to alienate properties, notably in grain-growing regions as well as the olive-producing Sahil, which further fuelled the Tunisian nationalist movement by World War I (Bachachi 2009; Yazidi 2005). In any case, the triangulation is apparent.

The next section analyses the parallelisms as well as the intersections between protectorate assaults upon the Islamic *habous*, the Catholic Church and Italian schools.

4.6 The saints of Korbous: The politics of healing and hydrotherapy

The story of the saints of Korbous and colonial attempts to expropriate their properties, situated on an ancient hydrotherapy station, appears to be a fairly straightforward example of classic land grabs. But a minute ethnographic inquiry spanning the pre-colonial and early colonial periods reveals otherwise. Located on the western edge of Cap Bon, Korbous, also called the Aquae Calidae Carpitanae, had been the spa of choice for wealthy Romans from Carthage because its sulphur springs, averaging between 50 and 60 degrees centigrade, were believed to be highly efficacious. By the early nineteenth century, Korbous was a place of no great importance since it could only be reached with difficulty by land. Then Ahmad Bey (r. 1837-1855) built a palace there that provoked a moderate boom in the village's fortunes, as the ruler's presence brought improvements in road transportation, making the springs more accessible. But the sacred was never far removed from health-seeking behaviour and social praxis.

As was true of most springs in North Africa, the waters of Korbous enjoyed the protection of Sidi Abu Ammara, whose *zawiya* (a tomb shrine) was the object of annual pilgrimage; women, in particular, sought the saint's blessings as a remedy for infertility. Beylical decrees from 1787 on reconfirmed the rights exercised by Sidi Ammara's descendants over the baths, springs and bathing pool at Korbous, and were reissued until the late nineteenth century. For decades prior to 1881, Tunisians and resident Europeans, including the French and British consuls, employed the Korbous waters to treat rheumatism, arthritis, dermatitis and digestive problems, among a range of ailments. The fact that cure-seekers rented rooms or cottages from the local inhabitants of thermal stations indicates that health tourism existed in Tunisia well before colonialism, and that these places represented places of cultural-religious intermingling. En-meshed in complex ways were the purified and political as well as the social and religious (Clancy-Smith 2011: 304-314).

From the late 1880s on, French investment companies sought to establish private property rights over the Korbous springs with an eye to high-end, European-only, tourist development. Their aim was to create what Jennings (2006: 166-167) terms 'recompression chambers' for ailing colonials returning home from the empire's tropical reaches. Neverthe-less, it took years to amass property deeds and this ultimately resulted in a nasty revelation; the land and water were held by the large saintly fam-ily but confirmed by the Husaynid Dynasty as *habous*; and use of these resources had been granted to villagers and saints alike in complex ways. Moreover, the protectorate had pledged not to seize beylical properties, and initially to respect the pious endowments; the fact that it would take years to establish rights scared off French investors at first.

In 1905, the protectorate compelled the Tunisian state to cede titles to the Compagnie des Eaux Thermales, which eventually acquired ownership of bathing pools and land. But this did not happen without a bitter, pro-tracted struggle waged by the saints and villagers that delayed the takeover. As pressures mounted on the bey and Idarat al-Ahbas, the administration of Muslim foundations, to relinquish deeds, a different set of officials at the Direction de Santé opined that 'indigent Muslims should receive free care at Korbous because the site is important to all of the country's Mus-lims'.[11] And until disestablishment, Catholic missionaries were guaran-teed entry to spas gratis, as were soldiers in the French army, which in-cluded Tunisian Muslim *spahis*. The company even employed the scare tactic of spreading rumours about syphilis-infected natives to thwart counter-efforts to keep the healing station open to all.

While they sought to insulate elite European clients from socially ob-jectionable spa-goers, the promoters failed to completely banish Muslims or Jews, or even poor Mediterranean folk, from Korbous. In the colonial period, upper- and middle-class Tunisians flocked to the springs, although

they 'kept their distance from Europeans' (Arnaud 1912: 6; Geslin 1913). Colonial spas did, however, effectively sever the sacral dimensions of thermal cures from the purely therapeutic, while also partially erasing the contributions of age-old Tunisian healing arts. It is significant that efforts to create hydrotherapy stations spatially segregated by race and class (which would have eliminated many Italians or Maltese) only succeeded in a narrow sense and came nearly 25 years after the advent of colonialism. The long fight over the thermal station's healing water cannot be logically subsumed into a binary construct because colonial officials were bitterly divided over the question. In part, this was because both Tunisians and resident Europeans had frequented local beaches and thermal springs together for nearly a century.

As the Korbous saints were bullied to give up springs and lands, the Catholic Church in Tunisia experienced similar pressures after 1901. But an identical problem bedevilled anti-clerical colonial officials. Most church or missionary buildings had been loans or leases, dating back to the 1840s or even earlier, from the Husaynid State; the dynasty owned, or held in various ways, most of the prime real estate, especially in the Tunis region. And France's laws of separation raised the mare's nest of legal pluralism in relationship to public manifestations of faith and religious property.

4.7   Disestablishment: The Virgin of Trapani and other dilemmas

The anti-clerical legislation of 1901, 1904 and 1905 included the so-called Law of Associations, making Catholic congregations illegal because they were directed from abroad, and the subsequent Law of Separation that closed schools run by religious orders whose properties were expropriated in France. But the legislation was applied unevenly in the colonies precisely due to the persistence of older contracts and bargains (Rochefort 2007). Indeed, the Catholic Church in pre-colonial Tunisia enjoyed a position different from colonial Algeria. Relations among the Tunisian state, the missions and the European consuls had been more or less cordial and mutually beneficial. This changed dramatically when Charles-Martial Lavigerie was named Cardinal of the Holy See of Carthage in 1882. A committed French imperialist, Lavigerie attempted to expel as many Italian clergy and congregations as possible from Tunisia. He also introduced his own missionary orders, the Missionaries of Our Lady of Africa, for both men and women, which became known in popular parlance as the White Fathers and White Sisters.

Nonetheless, missionary educational and modern social welfare establishments, such as clinics, orphanages and homes for wayward girls, had long been in existence. The French Catholic Sisters of Saint-Joseph

(SSJ) had arrived in Tunisia after being expelled from French Algeria in 1840 by the Bishop of Algiers and the governor-general. This female teaching congregation benefited greatly from Husaynid patronage, particularly in the realm of property. For a modest sum, Ahmad Bey rented a structure located at Sidi Saber in the medina to the SSJ for the first girls' school in the country, which gradually was transformed into a long-term gift. As the biggest game in town, the pre-1881 Husaynid Dynasty functioned as a real estate agency, handing out rental properties and acting as landlord for diverse missions in the same way that the beys lent prime seaside villas to select members of the European consular corps in a cooptation strategy (Clancy-Smith 2011: 247-287).

As with Korbous, it took years, over a decade, for protectorate officials to sort out property deeds for church buildings in order to legally seize them. Therefore, the teaching congregations in Tunisia, both male and female, appear to have suffered less expropriation than elsewhere. Indeed, the closing of thousands of Catholic schools in France and other anti-clerical measures brought a huge influx of unemployed missionaries to Tunisia and elsewhere in the French Empire (Curtis 2000; Daughton 2006). Thus, the pre-colonial benevolence of Muslim princes towards missionaries, whose primary goal was to minister to expatriate Catholic communities in Tunisia, sweetened the bitter pill of disestablishment. And by the eve of World War I, colonial anxieties about the growing Italian influence meant that some Catholic schools were quietly allowed to open as a counter-measure.

From the reign of Ahmad Bey on, the dynasty's relative religious tolerance transformed the practice of Christianity into a public presence with churches, bells, social welfare structures and street processions. The two most important annual events were Corpus Christi devotions and the Sicilian celebration for the Virgin of Trapani; some Muslims participated in the latter, which took place in every city or town with a Sicilian community. In the words of an eye-witness:

> The annual procession to honour of Our Lady of Trapani in La Goulette is not the sort where the faithful walk in rows, chanting prayers or reciting the rosary. Instead a large statue of the Virgin posed on a wooden stretcher is carried through the streets by a dozen men who take turns. And all around the Virgin, a diverse crowd presses, seeking to touch the statue either with hands or with pieces of cloth. Mixed in this crowd are veiled Muslim women who have also come to pray to the Madonna. (Dornier 2000: 217)

In 1905, Stéphane Pichon, the virulently anti-clerical, anti-Muslim resident-general, implemented the laws of separation by refusing to participate in public Catholic ceremonies or to attend mass in the cathedral on

Avenue de France, something that earlier officials had faithfully done. While Corpus Christi processions were banned, ironically, the boisterous Sicilian celebrations held every 15 August were permitted, something that French clergy found difficult to take. In effect, Pinchon had applied the laws of disestablishment selectively for fear of stirring up Sicilian resentment against the French regime (Dornier 2000: 52). Thus, the fourth social actor determined colonial policies during the assault upon the Church and its missionary congregations. But what about the third actor?

Even after 1905, the Muslim brotherhoods or Sufi orders (known as *turuq* or *confréries*) were allowed to process through the streets of Tunis for holy days or saint veneration at a time when France was obsessed by the orders, depicted by colonial theorists as international secret, political associations resolutely opposing the empire. Protectorate authorities explained the contradiction with the old saw of not wanting to excite Muslim fanaticism, the same excuse deployed for the Sicilians. But one wonders about processions in honour of the Virgin of Trapani; when the cortège passed in the streets, the Muslims showed respect by standing at attention – did officials not want to wound local Muslim sensibilities regarding veneration for Miriam?[12] Ironically, as the anti-Church laws were being instituted, the protectorate increasingly participated in Husyanid religious functions – for example, officially visiting high-ranking ulama or receiving the heads of the guilds (*amin*-s) during Islamic holy days (Ben Achour 2003).

Another set of relationships between Catholics and Tunisians emerged from the crucible of disestablishment and fed into nationalism during the inter-war period. In 1932, the White Fathers transformed the Centre d'Études Arabes, a language school to teach Arabic to missionaries, into something new. The Institut des Belles Lettres Arabes was situated near the Kasbah in the upper Tunis medina, where it still remains today. Devoted to intellectual and artistic exchanges in French and Arabic, the institute taught the history and culture of Tunisia and North Africa for the first time. Indeed, its first director, Père André Demeerseman, had the courage to state in writing that 'the hour has come [for France] to allow the Tunisian people to take destiny into their own hands'. This earned him bitter attacks in the colonial press for being a Tunisian nationalist, which he was in a sense (Dornier 2000: 551).

The laws of separation created enduring antipathy in Catholic congregations towards local colonial regimes as well as the metropole. One by-product of these antagonisms is that they seem to have encouraged Muslim families to send daughters to girls' schools run by Catholic nuns because the missionaries were no longer aligned with France or the protectorate (Clancy-Smith 2007b).

4.8   Water closets: The Franco-Italian educational cold war

What about political uses of the complex layering of laws and practices regulating schooling? The Franco-Italian educational cold war began prior to colonialism but accelerated after 1881 to intersect with the battle against Catholic institutions. That cold war demonstrates the interplay between law, urban space and education, revealing the triangulation of colonial actors and the importance of small spaces in colonial governance. The main battlefield became the schoolroom and, by extension, the water closet. French officials deployed building and hygienic codes as well as municipal regulations to undermine the 1896 treaty conferring special status upon Italians and their institutions, first and foremost being schools and cultural organisations. Building codes regulating the size, location and ventilation of water closets proved a powerful weapon for local administrators seeking to close down Italian schools, which occurred on a regular basis.[13] To complicate matters, in 1893, the Husaynid Dynasty rented yet another of its palaces in the medina's Halfaouine district to the Italian community. The structure was converted into medical facilities uniquely for Italians, with Italian nationals serving as doctors and administrators (Dornier 2000: 403). This was not the first time that the beys had leased buildings, principally for schools, to Italian residents.

Much in contrast to how urban policies were manipulated in colonial cities elsewhere, the protectorate sought less to spatially isolate Tunisians from Europeans than to combat a European rival and resident community.[14] When used as social documents, municipal codes, hygienic arguments and architectural regulations that were manipulated to restrain the growth of Italian institutions explain why some schools for indigenous Arab children survived, despite vicious attacks by the right-wing colonial lobby, dead set against educating 'natives'. Italian newspapers, libraries, cultural circles and nurseries, some established before 1881 and many after, inflamed and thus distracted French officials (Saurin 1900).[15] The fact that considerable colonial resources were expended to checkmate these activities deeply influenced Islamic governance. This may have provided some diversionary cover to Tunisian nationalists for organising and mobilising after the Great War; but that is another story.

4.9   Conclusions

After 1900, the Residents-General Cambon, Massicault, Rouvier and Millet, who previously had been mildly anticlerical and generally favourable to Islam and Muslims, were replaced by officials, such as Pinchon, who simultaneously waged battle against three declared enemies – the Church, Tunisian Muslims who resolutely opposed the seizure

of the *habous*, among other things, and the Italians. A concerted move against one of them entailed calculations regarding the other two. Nevertheless, in 1939, former Ministre des Affaires Etrangères Yvon Delbos (1939: 1) claimed the following: 'We now enjoy in this part of Africa [Tunisia], almost all of the advantages of colonial possession, without any of the inconveniences. By definition this is how Jules Ferry conceived of the Protectorate a half a century ago.' How can we explain this astonishing assertion? Due to the weight of the archive (European and colonial, for the most part), the rhetoric of empire still overwhelms facts on the ground regarding historical moments of rupture in relationship to the colonial governance of Muslim societies. Narrowly construed institutional and legal approaches have drawn uncritically upon this archive; in consequence, they fail to recognise that the implicit, aleatory and unwritten were critical. Customary ways of doing things, settling conflicts or securing justice, resources and patronage, shaped the colonial order. Seeing like a state demands attention to the entire range of actors and local social worlds, which were shaped by the presence of non-Muslims (Scott 1998).

Employing a micro-ethnographic approach does not mean that the big structures are ignored. By the last decades of the nineteenth century, Tunisia's macro-situation was that of a state under a number of different albeit overlapping authorities: the Husaynid Dynasty; the protectorate; and deeply-rooted foreign – or better, creole – communities with long-standing ties to a specific village, city quarter or profession. While enjoying special status after 1896, the Italians continued to live in many respects according to a much older agreement – the Tunisian-Italian treaty of 1868. One could add to the mix yet another authority: the Church, as it evolved in Tunisia, overseeing daily life and personal status for the vast majority of Catholic expatriates. For the decades prior to 1881, the Ottoman Empire needs to be factored into the layering of authorities as well. At work during the long nineteenth century were at least three Tanzimats: Ottoman-Tunisian experiments in modern forms of governance; the Catholic missions' moral and spiritual reordering of immigrant communities; and an Italian cultural-political *risorgimento*. All of these impacted the protectorate.

Europeans who peopled empires were neither monolithic nor necessarily colonists; some were not even legally European nationals. Complex webs of local political arrangements, struggles and compromises characterised overseas possessions and invariably produced unforeseen configurations – a plurality of civilising missions and a plurality of outcomes. Tunisia offers a rich comparative site for conceptualising various kinds of violence – military, socio-institutional, legal and psychological – in the governance of Muslim societies. Moreover, as Achi (2007) posits, the very category 'Algerian Islam' became thoroughly normalised during the nineteenth century so that a new religion, and political target, was created.

Generally, the colonial literature does not evoke similar constructions of 'Tunisian Islam'. On a larger level of analysis, a fundamental dissimilarity between the British Empire and the French Empire emerged after 1905; this distinction was not about the fact that one imperial system favoured indirect rule or association, while the second privileged direct governance and assimilation. Rather, given the significance of missions and missionaries to the practice of empire, France's disestablishment produced quite distinctive relationships on the ground between colonial regimes and religions.

After 1881, the Husaynid Dynasty and the Tunisian State, which were no longer coterminous, became protégés of France; conflicting jurisdictions positioned the early protectorate in roughly the same intractable situation as pre-1881 beylical and consular justice. The major weakness in colonial governance was that officials regarded their own categories, boxes and taxonomies as stable, real and legible, when in fact the dynamic of the system was one of continual process. Benton's (2002) work traces the historical movement from truly plural legal regimes to state-dominated legal orders characteristic of colonial states. While provocative, this model needs to be juxtaposed with closely historicised ethnographic case studies of colonial legal orders as they operated on the ground. In certain instances, colonial states failed to – or chose not to – dismantle existing cultures of legal pluralism (Stein 2011).

Finally, the dynasty's symbolic capital deriving from the eighteenth century must have persisted until the eve of independence. Otherwise, how can we explain the behaviour of Tunisia's first president? In 1957, after deposing the last bey, Habib Bourguiba personally oversaw the destruction of many Husaynid properties and residences. Bulldozers and crews armed with dynamite were unleashed upon ornate Neo-Moorish buildings – palaces, pavilions, villas and gardens. That Bourguiba did not order the demolition of such blatantly colonial monuments as the Tunis train station or the central post office, which stand untouched today, is significant. (Ironically, some of the beylical properties left intact were held by Catholic congregations.) In effect, these structures represented visible reminders of the Husyanid Dynasty, which had endured for two and a half centuries, including 75 years of colonial protection. The protectorate strategy of doubling or mimicry in institutional and other realms inadvertently kept the dynasty alive.

Why is a study of the multifaceted transitions from pre-colonial to colonial important for macro-level work on Islamic governance or governance, in general, for today's world? Whatever their velocity or temporalities, moments of rupture, if conceptualised properly, offer rare glimpses into what was, as well as what might have been, and thus provide glimpses of what lies ahead. The upheavals that first broke out in Tunisia in December 2010 demonstrate compellingly that the colonial era lives on in

2011. If the micro-islands of Pantelleria and Lampedusa sent their landless sons and daughters to Tunisia in search of a living during the nineteenth and twentieth centuries, now Lampedusa, just off the coast, houses some 18,000 Tunisians fleeing political unrest and social uncertainty. At present, Italy contends that it should not be punished for being so close to Tunisia. And France and Italy are once again fighting over North Africa and immigration (Donadio 2011).

Notes

1   The Paris programme was launched in January 2008. At the same time, the British government also announced that it would tackle religious extremism by offering citizenship lessons to young Muslims (Wilkinson 2008). It should be noted that at the St. Mauront Catholic School in Marseille, an institution that had traditionally educated Portuguese and Italian labour migrants before World War II, nearly 80 per cent of the students are now Muslim, mainly from North Africa. Overall, as much as 10 per cent of the nearly two million students in French Catholic schools today are Muslim (Bennhold 2008).
2   The bloody end of empire in the Maghreb has been dominated by studies of Algeria, leading to the relative marginalisation of Morocco and Tunisia in the scholarly literature.
3   Marouf fails to problematise the notion of rupture; areas that demand such a problematisation, however, are pre-colonial and colonial legal regimes, migration and urbanism.
4   Indeed, there are few studies of colonial enterprises, although Italian or missionary viticulture in Tunisia has now attracted attention and is fundamental because that sector of the economy straddled the pre-colonial and colonial divide. In large measure, the problem is one of the archive. It is still difficult to gain access to company records in France – the papers of individuals or business clans, or the records of private banking and financial institutions – in order to study the principal institutional sites for French capital investment and labour exploitation.
5   Machuel, born in Algiers in 1848, held the post of Directeur de l'Enseignement Public en Tunisie after 1883, but had earlier been a professor of Arabic in Constantine and Oran. It was not only male educators who left Algeria; graduates of European women's normal schools also went to Tunisia to pursue teaching careers there.
6   Gabaccia (2000) makes the point that in labour-exporting countries or regions with long traditions of expatriation over generations, each phase in serial emigrations displayed its own unique historical and cultural characteristics.
7   These processes bear an uncanny resemblance to current global disaster capitalism. The Husaynids, who consolidated their power from 1705 on, emulated their Ottoman overlords, while steadily and systematically establishing ever greater autonomy. The dynasty never challenged the Ottomans – in the way that Muhammad Ali Pasha of Egypt attempted to do through military rebellion – but rather, refused to implement the Tanzimat Reforms of 1839 and 1856. It also broke with Istanbul by abolishing slavery and the slave trade from the 1840s on.

8   In c. 1830, two to three thousand Europeans or Crypto-Europeans resided in Tunisia; most clustered in the Tunis region. By 1880, the percentage of Europeans and/or those not recognised as subjects of the ruling dynasty, including groups that defy jurisdictional pigeon-holing, had climbed to 15 per cent or more of the capital city's total population, estimated at just over 100,000. This contrasts with British-ruled Cairo, where the percentage of foreign residents never reached more than 6 per cent.

9   A large community of Italian anarchists was established in Tunis by the 1870s and continued to grow even under French rule; they later opposed Fascist propaganda in Tunisia (Khuri-Makdisi 2010).

10   The 1880s was precisely the period when European jurists begin to address the embarrassments and contradictions of legal pluralism in the colonial situation, especially concerning marriages across religious or national lines; legal scholars attempted to rationalise jurisdictional disputes between sovereign nations, which in modern parlance became the notion of 'conflict of laws' (Cosgrove 1996).

11   National Archives of Tunisia, Série E-377-3; the hefty Korbous dossier contains numerous, heart-wrenching petitions in Arabic from the villagers and saints opposing the takeover by appeals to social justice; e.g. 30 March 1906: 'The shaykh of the Sidi Ammara complains that their lands are expropriated.'

12   Interview with Madame Hasiba Agha, Kram, 18 June 2009.

13   In the National Archives of Tunisia, the *Série E* primarily contains colonial records on education during the protectorate. This series features numerous documents detailing how colonial officials played the 'water closet card', using allegedly poor hygienic conditions to discredit Italian religious or secular schools as well as French Catholic institutions.

14   Colonial legislation was published in the *Journal Official Tunisien* and the *Journal des Tribunaux de Tunis* from 1883 on. But these sources do not necessarily inform us about the critical matter of interpretation or implementation of laws. Colonial urbanism in Tunis differs significantly from Algiers or Rabat (Abu-Lughod 1980; Çelik 1997; Çelik, Clancy-Smith & Terpak 2009).

15   Italian schools in French-ruled Tunisia occupied a political position similar to French schools in British-ruled Egypt, with the major difference being that the French colony in British Egypt never came close to the demographic density of the Italians in Tunisia. In the treaty concluded between France and Great Britain relating to Egypt and Morocco and signed in London on 8 April 1904, the first article stated: 'The French schools in Egypt shall continue to enjoy the same liberty as in the past.'

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Chapter 5
Governing Islam by tribes and constitutions: British mandate rule in Iraq

Michiel Leezenberg and Mariwan Kanie

5.1   Introduction

The study of the religious dimensions of Iraq's modern history is not only of inherent historical, theoretical and comparative interest, but a matter of practical urgency. At present, however, these dimensions are only imperfectly understood; earlier studies from a modernisation-theoretical or a political-economy perspective tend to ignore or downplay religious factors; at best, they focus on specific religious groups, most prominently, the Shiites. Here, we will trace how religion in Iraq was shaped and reshaped between late Ottoman rule, the British mandate (1920-1932) and the early monarchy. Our cut-off point will be the 1929 British decision to end the mandate, which set the stage for Iraq's formal independence in 1932; for reasons of space, we cannot analyse later developments in detail, but we will make a few brief remarks comparing and contrasting mandate Iraq with later constellations.[1]

5.2   Government and modernisation: Towards a genealogical and interactional approach

Most existing studies explore Iraq's emergence from the Ottoman Empire using either a modernisation-theoretical or a political-economy perspective. A *genealogical* approach, by contrast, proceeds from the assumption that notions like religion, the state and society are not neutral analytical tools; rather, they only acquire a determinate content against the background of governmental and other practices. The enormous changes in these practices during the nineteenth and twentieth centuries imply that those concepts themselves radically changed their content as well. Thus, it is difficult to describe the pre-modern Ottoman Empire as involving a 'secular state' or a 'multiethnic' or 'multicultural society' in the present-day sense: not only was there no clear-cut equivalent of the liberal public-private and state-society distinctions on which the notion of secularism rests, but both the notion and the entity we call the state also underwent qualitative changes. In addition, in a very real sense, there was no such thing as Ottoman society yet. Ottoman administrators had neither a notion

of the Ottoman population as a whole nor the concomitant population policies until very late in the empire's history. In fact, the very words for 'society' (the neologisms *ijtima'a* in Arabic and the even more recent *toplum* in Turkish) were not coined until the late nineteenth and early twentieth centuries. Rather, the Ottoman rulers governed over a *re'âya* ('flock'), not a society; this flock was, in theory at least, distinguished from the *askerî*, the 'soldier' class, consisting of Ottoman military and civilian officials. The *askerî-re'âya* distinction not only cut across the state-society opposition, but also across the one between Muslims and dhimmis (non-Muslims): especially in the Danube provinces, Christians could be employed in both civilian and military positions up to and including that of *hospodar* ('governor'), and thus qualify as *askerî*. Another development is the emergence of something much like the European liberal public sphere in the eighteenth and nineteenth centuries. This public sphere emerged especially in places like the Ottoman coffee houses; it involved qualitatively new kinds of language usage and paved the way for the cultural (and subsequently political) nationalisms that were to emerge in later decades (see Leezenberg 2007).

It is difficult to describe the classical Ottoman Empire adequately with the vocabulary of present-day liberal political theory: thus, it can hardly be meaningfully qualified as either a 'secular' or a 'religious' polity. In fact, as a genealogical analysis reveals, the nineteenth century precisely marked a development *towards* a quasi-liberal constellation in which all Ottoman subjects came to be seen as governed by law and in which the empire's officially recognised non-Muslim population groups known as *millets* ('peoples' or 'nations') were redefined as constitutionally protected 'religious minorities' (and, not long afterwards, as national identities).

For these reasons, a genealogical approach may be useful for understanding processes of modernisation in the Muslim Middle East. In the background of our current research hovers the more general theoretical question of how liberal kinds of governmentality were articulated – and contested – in different kinds of colonial, quasi-colonial and post-colonial constellations. Although we will not address that question here, it informs and guides our current research activities; a more systematic focus on both the colonial dimension and interactions between the modernising Western and non-Western worlds marks a significant departure from more familiar genealogical perspectives. As is well known, Foucault (2004a, 2004b) tends to take for granted the framework of the secular French nation-state against which modern forms of liberal governmentality emerge and does not break free of its conceptual and normative confines. Even though he occasionally refers to colonialism and the Algerian war of decolonisation, he explicitly states that in the modern world, the theme of 'empire' disappeared in favour of a discourse of the 'state' (Foucault 2004b: 299); ironically and in contrast to Foucault, the modern

nation-state developed at the very moment that colonisation and imperialism were becoming major ways of governing.

Hence, an *interactional* approach, which systematically breaks free of the conceptual, ideological and normative confines of the nation-state and explores contacts, convergences and mutual influences between various local and global actors, may serve as a useful corrective. Such an approach not only emphasises the connections between different parts of empire, but also focuses on changing forms of local agency. Combining an interactional approach with a genealogical attention to the contingency and historicity of entities like the state and religion may lead to a reappraisal of secular modernity. On such an approach, secularisation is neither the inevitable product or aim of modernising or civilising missions nor the ideological domination by hegemonic imperialist forces, but rather the contingent and contested result of contacts between various local and global actors. In these developments, religious and other cultural factors are constitutive of changing identities as much as constituted by socioeconomic processes.

Analytically, several different kinds of interaction may be distinguished. In recent years, interactional approaches that argue how colonial encounters have had a constitutive influence not only on the colonised, but also on the colonisers have gained popularity.[2] This kind of interaction, however, appears to require a prolonged period of intensive contact, prototypically through direct colonial occupation, such as British rule over India and perhaps French rule over Algeria and Dutch rule in the East Indies. But such a prolonged period of direct colonial rule, in which the colonising force employs state power to enforce or implement particular policies and cultural and other changes, may be the exception rather than the rule. Not only were there major differences between these three colonising powers, but other parts of the world were colonised for a much shorter period of time or, such as in the case of the Ottoman Empire, not at all. Likewise, there are enormous differences between the various forms of colonial or imperialist rule: these may vary from direct territorial annexation and massive resettlement, leading to the French conceptualisation of Algeria as a part of France rather than a colony; to incorporation or annexation as a subordinate part of an empire, as was the case with colonial India; and to the imposition of a mandate aiming at speedy independence, as in the case of Iraq. It is not at all clear in advance that areas with a history of far less intensive forms of colonial domination will display similar forms of mutually constitutive interaction as, say, the British and Indian experiences.

There is a rather different (or more generic) kind of interaction, however, that emerges from the work of, among others, Cambridge historian Bayly. Such approaches trace the more or less synchronic emergence of historical innovations like the nation-state, world religions and grammat-

ically codified modern languages across different parts of the globe, and
the increasingly interwoven character of economic and political processes.
Bayly (2004) argues that the nineteenth century displays a novel, increas-
ingly synchronic and indeed converging history of different parts of the
world. Imperialism is but one aspect of this process, and one should not
overemphasise its determining force: thus, the Ottoman Empire as such
was never colonised and, even in the Iraqi case, British colonial dominance
was relatively brief, erratic and by no means all-determining.[3]

   This is not, of course, to deny the real and often destructive effects of
imperialism, especially in creating different forms of economic depen-
dency and underdevelopment, and in imposing often harsh, authoritarian
and exploitative forms of colonial rule. But an interactional approach may
serve as an antidote to the more familiar narratives of the gradual but ir-
resistible incorporation into the capitalist world market and of an invisible
and equally inevitable spread of hegemonic Western cultural models of
liberal nationalism, ethnic identity and the like. Such narratives tend to
reproduce ethnocentric and modernist assumptions that depict non-
Western actors as entirely passive and their societies as static or stagnating.
These narratives, however, are problematic for both conceptual and nor-
mative reasons. In tracing contingencies, discontinuities and local devel-
opments, we hope to restore the balance between local forms of agency
and an allegedly hegemonic imperialism that often tends to dominate
analyses. In particular, one should beware of uncritically reproducing the
oft-repeated suggestion that Saddam Hussein's murderous policies were
in any way necessitated or predetermined by structural factors, like Iraq's
heritage of imperialist divide-and-rule policies or its economic predica-
ment as a rentier state according to the dogmas of dependency theory. In
fact, Baathist rule involved a very particular style of governing, unique in
the region and consciously modelled on, in particular, the Soviet Union
under Stalin.

5.3   Iraq in the age of Ottoman reforms

There is still a widespread conventional image that Iraq had seen economic
and cultural stagnation, political oppression and misrule since the
establishment of Ottoman rule in the sixteenth century, if not since the
destruction of Baghdad by the Mongols in 1258.[4] This image, however, is
a highly ideologically laden revivalist stereotype, shared by British impe-
rial historians, Arabic nationalists and Islamic modernists alike (not to
mention comparable stereotypes about alleged Ottoman stagnation and
oppression among Greek and other Balkan nationalists). In fact, Ottoman
rule was hardly uniformly despotic and exploitative, and the entire Ot-
toman Empire went through a period of radical and dramatic changes for

virtually the entire nineteenth century. The most important of these changes are, of course, the liberal Tanzimat Reforms (1839-1876), aimed to establish a constitutional monarchical regime characterised by equality before the law and the protection of religious minorities (*millets*), and the pan-Islamic policies of the Hamidian Age (1876-1908). These developments, however, are generally described from the perspective of the political and administrative centre in Istanbul, and less is known about the peripheries of the empire. At present, we only have a very general – and in part, ideologically distorted – picture of developments in nineteenth-century Iraq.

Ottoman reforms were imposed from above rather than demanded from below; given the rulers' lack of funding and efficient means of communication, not to mention an army, these reforms were implemented haphazardly and variably in different parts of the empire, if indeed they did not remain a dead letter. As a result, the implementation of reforms like the 1858 land reforms remained haphazard and displayed considerable local variation. In the Mesopotamian provinces, however, the governor of Baghdad, Midhat Pasha, appears to have made a concerted, and in part successful, effort at implementing the land reforms. These aimed at increasing state control over Ottoman land, but instead they wound up encouraging private ownership and over the decades led to the creation of a small class of large landowners who possessed virtually all of the arable land in the country (see Batatu 1978: part I).

Relevant to our discussion, however, is less the question of to what extent Ottoman measures were successful than the question of what conceptual changes were introduced by the reforms and other institutional and practical developments. First, the rise of a public sphere and the new public uses of language that came along with it led to the idea of languages as constitutive of national groups; second, legal reforms not only created the notion of the rule of law and equality before the law, but were also germane to a reconceptualisation of the individual as a right-bearing subject; and third, land reforms helped in bringing about what might be called individual landownership and a notion of 'possessive individualism'[5]; to put the point differently, over the years, the legal and institutional reforms resulted in wholly new different kinds of subjectivity. Along with these, the notions and entities of state and society, and law and religion, underwent equally radical transformations. The new articulation of public and private spheres put the Ottoman Empire on a converging course with contemporary European states. All of these changes, of course, developed only slowly and erratically over the decades, but their results were for the most part irreversible.

Often, the Tanzimat Reforms are seen as the adaptation of Western (and, in particular, French) models. More recently, however, attention has been called to their Islamic roots and legitimations and to the internal

dynamic that convinced Ottoman administrators that radical reform was inevitable.[6] The subsequent Hamidian era does not so much mark a reversal to 'pre-modern' Islamic order from the allegedly secularising Tanzimat Reforms, but rather a continuation of its centralising tendencies. Sultan Abdülhamit tried to increase centralised state power not only by increasing the bureaucracy and state-based education, but also by his rural tribalisation and re-tribalisation policies and by a new and greater political emphasis on religion, most notably by appealing to pan-Islamic solidarities between all Muslims (see Zürcher 1993: chapter 7; Landau 1990). Sultan Abdülhamit's religious policies have often been qualified as 'conservative' or 'reactionary', but such labels mask more than they clarify. Entirely novel, for example, was his attempt at rapprochement with Qajar (and Shiite) Persia, a move that was of particular significance to the Shiites in his empire, most of whom lived in southern Iraq. Little is known about the effects of these pan-Islamic policies and propaganda on the local population of Iraq, which appears to have been increasingly sceptical about Ottoman policies but often took Islamic solidarity as a matter of course. But regardless of how successful Ottoman attempts at mobilisation and co-optation were, the Iraqi Shiites gained new leeway during this period (see Çetinsaya 2005; Deringil 1999).

Fearing the emergence of a strong local ruler in Iraq, Abdul Hamid resisted the unification of the three vilayets of Mosul, Baghdad and Basra into a single Ottoman province. Instead, in his wish for a more strongly centralised empire, he – paradoxically perhaps – pursued an accommodating policy towards the tribes. These policies make it clear that tribes are not primordial entities, but in part constituted by wider political processes; some of these well predate colonial rule.[7]

Perhaps the most dramatic reforms of the Tanzimat concerned the structure rather than the content of the law. The codification and what Zubaida (2003: chapter 4) calls the 'etatisation' of the laws brought along a radical change in juridical practice, which had hitherto been casuistic and largely at the discretion of individual judges. Now, courts of law became increasingly and more strictly linked to the state. As a further refinement of Zubaida's point, one should note that these structural and conceptual transmutations involved not just the law, but also the state itself. One should not understand the Mecelle, the new code of civil law promulgated during the Tanzimat era, as a generic imitation of 'Western models', and even less as a subordinate acceptance of a British colonial diktat or a reflection of imperialistic hegemony. The Mecelle specifically followed French models: it was a systematic attempt at recasting sharia precepts of the *madhhab* (the Hanafi school of law) practised in the central parts of the Ottoman Empire in the codified terms of Napoleonic *code civil*, an innovation that was as radical in Europe as it was in the Islamic Middle East. This codification appears to have led to a degree of legal unification

of the empire, especially in areas that followed the Shafiite rather than the Hanafi *madhhab* (such as the Sunni Arabic and Kurdish parts of Iraq), and even the areas where Shiite jurisprudence (or more properly, the Ja'fari *madhhab*) was practised in the south of Iraq. It remains to be assessed to what extent these reforms became entrenched in Iraqi legal practices.

The legal reforms have been studied extensively in the case of Egypt, but Egypt had an ambivalent relationship with the Ottoman Empire, being a de facto and in part de jure independent state from the reign of Muhammad Ali onwards. Thus, one should remain aware of the very different experiences that Egypt and Iraq had of both the Ottoman Empire and the British Empire. This also holds true for the common, comparable or converging reforms that both regions underwent in the nineteenth century. Thus, the late nineteenth-century emergence of Egypt's mixed courts has been interpreted as a capitulation to colonial expectations and as an attempt at resisting the colonising of local jurisprudence, but this is far harder to maintain for the Ottoman Empire proper.

Moreover, Asad (2003) argues that in Egypt, the Mecelle remained a dead letter; this may be an overstatement even for the Egyptian case and it should not, of course, be extrapolated to Iraq (see Zubaida 2005: chapter 4; Onar 1955). In the new Republic of Turkey, the Mecelle was abolished in the 1920s but, ironically, in other parts of the former Ottoman Empire, it remained in force much longer. Thus, in Iraq, a new personal status law was not introduced until 1959 (see Anderson 1960). In his introduction to the English translation of the Mecelle, Ballantyne (1986: 366) states that 'the very nature of the Sharia militates against the Mejella being designated a *Code*', but neither Islamic religious law nor codified law is a fixed and timeless entity. In fact, in this reform process, the sharia itself (and by extension, Islam as a religion) underwent a qualitative transformation from a casuistic form of law practised by individual judges into a codified law practiced by employees of the state.

Another development that appears to have been irreversible is the move towards constitutionalism as a way of curbing the ruler's absolute and arbitrary power. Although the Ottoman Constitution of 1876 was already abolished the following year, both in the Ottoman Empire and its neighbours, arbitrary and absolute rule was on its way out. As we will see, the constitutional revolutions in the Ottoman Empire (1908) and in neighbouring Iran (1906) were welcomed with enthusiasm by Iraqi Shiite ulama, in particular.

Finally, the Hamidian age witnessed the emergence of more aggressive and more exclusive forms of nationalism. It should be emphasised that it took several decades for more strictly nationalistic ideologies to materialise and stabilise: not only was identity politics a qualitatively new phenomenon, but the very distinction between national, tribal, religious and

political identities was also articulated anew. There nationalisms arose at first among Christian minorities of the Ottoman Empire, most importantly the Greeks, the Armenians and the Slavic peoples of the Balkans, but increasingly also among its Muslim population groups, like – most relevantly for Iraq – Turks, Arabs and Kurds. The rise of these new national movements has on occasion been explained as either a product of or a reaction against colonial domination or imperialist hegemony (see e.g. Haj 1994, inspired by Chatterjee 1986). But their near-simultaneous development in the Ottoman Empire – which, as such, was never colonised – and various other parts of the world suggests that other processes are also involved (see Bayly 2004: chapter 6). Worldwide, a shift from French-inspired liberal and positivist Enlightenment universalism to German (or Prussian) cultural models and more populist forms of Romantic nationalism appears to have occurred in the wake of the 1870 Franco-Prussian War and German unification (Bayly 2004: chapter 6, especially 205-219). There undoubtedly were imperial influences, but cultural and intellectual developments by no means mechanically resulted from any ideological hegemony of imperial power. In the case of Iraq, as elsewhere, it was French and later German at least as much as English models that shaped and informed new social and political currents. Thus, the near-simultaneous emergence of more aggressive forms of nationalism as a worldwide phenomenon of the late nineteenth century would seem an ideal case study for an interactional analysis.

5.4   Iraq's Shiites under and after the mandate

The late nineteenth and early twentieth centuries not only witnessed new assertions of national identities, but also new political articulations of religion, most importantly in the form of pan-Islam. Neither nationalism nor pan-Islam, however, was a genuine mass movement at this stage. Both religious and ethnic or national identities were in the process of being created during this era, and far from consolidated; in Iraq as elsewhere, one should thus beware of prematurely reifying labels such as 'Sunni' or 'Shiite' and 'Arab' and 'Kurd' into social realities. These notions were very fluid, and did not mark any clear boundaries: sectarian intermarriage and tribes consisting of both Sunni and Shiite members or divisions were quite common in Iraq. In this respect, it may be noted that the violent sectarian conflicts between Sunnis and Shiites in both urban and rural post-Saddam Iraq marks a dramatic and radical departure from earlier interrelations, and has no real precedent in the country.

For several centuries, Shiites had been concentrated on the unstable and contested frontier of the Ottoman Empire with Safavid and, later, Qajar Persia. Iraq's Shiite regions had also borne the brunt of the onslaught

by early Wahhabi, who at the close of the eighteenth century had not only captured Mecca and Medina, but even sacked the shrine city of Karbala in 1802. In fact, even during the mandate period, several major raids by Wahhabi troops into Iraq occurred. Over the course of the nineteenth century, however, the position of Iraq's Shiites improved considerably. In 1831, the Ottoman authorities revoked an earlier Mamluk prohibition of public exercise of Shiite rituals, giving more space to Shiite proselytising. Indeed, the most significant development of this period, according to Nakash (1992: chapter 1, especially 25-43), is the massive conversion of rural inhabitants of southern Iraq and entire tribes to Shiite Islam. The reasons for these mass conversions, which were still very much ongoing when the British gained control in 1917, are not entirely clear. But Ottoman authorities do not appear to have noted this significant wave of conversions until relatively late in the nineteenth century.

Ottoman authorities were wary of Shiite activities in Iraq, but at the same time tried to avoid alienating the Shiites. Thus, in his pursuit of pan-Islamic policies, Abdul Hamid proclaimed the essential unity of Sunni and Shiite forms of Islam, thus giving the Iraqi Shiites further opportunity to increase their activities; for a time, he sought a rapprochement with Qajar (and predominantly Shiite) Persia. At the same time, he feared the increasing Shiite activities in Iraq; after a failed attempt to re-educate Iraqi Shiites in Istanbul, he decided to increase the number of Sunni madrassas in Iraq (see Çetinsaya 2006: especially chapter 5). Early in the twentieth century, the Ottoman rulers tried, and failed, to send more Sunni religious specialists to counter the Shiite mujtahids, the jurists. As we will see, they eventually were successfully sidelined during and after the mandate period, not so much by a specifically religious policy as by the tribal policies of the British and the skilful balancing act played by King Faysal.

Ottoman state policies were intended to create an authoritarian form of pan-Islam, but among Iraqi and other oppositional intellectuals, constitutionalism was far more popular.[8] Iraqi Shiites generally did not acknowledge the Ottoman rulers as caliphs, but they did join in calls for an Arab Muslim *amir* ('king') without insisting he be a Shiite; they also supported both the Ottoman and the Iranian constitutional movements (see Çetinsaya 2005: 561; Vinogradov 1972: 131). In fact, the 1906 and 1908 constitutional revolutions gave a great impetus to Iraq's Shiites. Thus, Nakash (1994: 48-50) argues that shortly after the turn of the century, usûli Shiite mujtahids had already formulated a full-blown political theory concerning the state and the form of government – a theory that was in part inspired by Sunni modernists like al-Tahtâwî, al-Afghânî, Muhammad Abduh and Rashîd Rida, and in part by the particular form that the Iranian constitutional movement had taken.[9] This newly activist political role of Shiite religious scholars belies the widespread narrative that, prior to Iran's Islamic revolution of 1979, Shiite Islam tended to be

quietist and apolitical.[10] In both Iraq and Iran, Shiite mujtahids not only theorised new, constitutional forms of government, but were also practically engaged in successful attempts at mass mobilisation.

In the wake of the Ottoman constitutional revolution, Shiite political participation increased notably; both tribal sayyids and urban mujtahids emerged as political leaders who were able to mobilise considerable parts of the local population. The latter, in particular, spoke out against both the 1914 British invasion of Iraq, which they portrayed as a new Crusade against which a jihad should be conducted, and against Sharifian propaganda concerning 'Arabic independence'. There is intriguing evidence suggesting that Sunni Arabs (and, indeed, some Kurdish leaders, like Sheikh Mahmud) answered these Shiite calls, suggesting that the Shiite leadership was well placed to mobilise people across sectarian and ethnic divides (Mazhar 2001: 14; see also Vinogradov 1972: 132). Put differently, sectarian and ethnic differences were even less of an unambiguous political fault line than in later decades, when Iraqi politics came to be shaped by increasingly intolerant forms of authoritarian, and initially secular, nationalism.

Vinogradov (1972) argues that the 1920 revolt was not sectarian in character, but it was also not secular-nationalist, as it crucially involved religious injunctions against Muslims being ruled by non-Muslims. The Iraqi Revolt of 1920 marked the highpoint of Shiite political influence; its eventual failure was a first sign that the role of the Shiite mujtahids was on the wane, and that the Arab nationalist and Sunni-oriented ideals of the Sharifians (who were more sympathetic towards, or felt they stood to gain from cooperating with, the British) were gaining ground. The story of how, in Iraq and elsewhere, Arabic nationalism emerged victorious from the ideological battles preceding independence remains to be told. But in the Iraqi case at least, it appears to have required a protracted and concerted effort by Faysal's government against both Shiite leaders and Kurdish representatives during the 1920s and 1930s. The first component of this effort was the fact that constitutional and, more generally, electoral processes were set up in such a way as to marginalise the Shiites. One important way of doing so was promoting the rural constituencies and isolating them from the cities, a point on which we will elaborate below (see e.g. Davidson 1925). The Constitution had been drafted by British legal experts, then translated into Arabic and discussed at length in the legislative council. One should look beyond the predictable proclamations of Islam as the state religion and of freedom of conscience, tracing the conceptual changes it involves – changes that, in part, predate British involvement.[11]

It has repeatedly been observed that the 2005 Constitution, which emphasises Islam as a principle of jurisprudence, is in several respects more conservative than its 1925 predecessor, which in its turn was claimed

by several Iraqi politicians of the time to mark a significant step backwards with respect to the 1908 Young Turkish Constitution (Dodge 2003: 52). The main question in this context is how the British and King Faysal managed to divert discontent by an appeal to both constitutionalism and the rule of law, and to religious sentiments and convictions. Thus, during the March 1924 opening ceremony of the Iraqi parliament, Faysal effectively linked the two.

> Islamic laws are based on consultation (shura), and the biggest sin committed by the Islamic sects (tawa'if) is the neglect of consultation [...] Every neglect of this is against God's command. In accordance with this divine command, in taking the great nations of civilisations as an example, and in respecting the wish of the Iraqi nation, I ask you, respectable representatives, to draft the constitution. (in Al-Wardi 1992: 272)

A second ground for the victory of Arabic nationalism over the Shiite mujtahids was the successful attempt to sever the Shiite mujtahids' links with their considerable following in Iran and India. On the one hand, many Shiite clerics were brandished as Iranians – that is, as foreign agents acting against the interests of Arabs and the Iraqi state. On the other, the British administrators managed to gain control over the flow of money from Shiites abroad to the shrine cities, thus depriving the Shiite clergy of a considerable part of its income, and as a result of its political autonomy (Nakash 1994: chapter 8). In other words, by pursuing secularist policies of separating religion and state and romantic policies of opposing cities and countryside, successive British administrators and Iraqi governments effectively managed to isolate the Shiite clergy.

One question that still awaits an answer is to what extent these anti-Shiite policies were the work of the British, or rather of local actors such as, most importantly, King Faysal and the successive Iraqi cabinets (see Sluglett 2007). It seems that while British legal reforms did indeed aim at sidelining the Shiite leadership, it was actual political manoeuvring by the king and his successive cabinets that achieved this result. King Faysal, in particular, was engaged in a delicate balancing act. He knew well that securing the support of the various tribal and urban groups would be a daunting challenge, and there were even several serious contenders for the throne of Iraq. The fact that he managed to secure not only the throne, but also legitimacy for his rule is an achievement that should not be underestimated; it certainly cannot be attributed to the mere backing by British knowledge, ground troops or airpower. When touring the country in the early 1920s, Faysal was careful to use Shiite-sounding language for his Shiite audiences in the south of Iraq. This did not fail to impress those who heard him, leading local Shiite papers to write that Faysal may have

been a Sunni in outward appearance, but had the heart of a Shiite.[12] Likewise, Faysal appears to have given the Shiite leaders the impression that he would protect their interests as much as those of the Sunni leaders he had encountered.

The British tried to curb King Faysal's powers as much as they tried to empower him, but it would be a serious oversimplification to see him as either a British puppet or a pre-modern tribal leader. Thus, the 1925 Constitution granted the king considerable executive powers. The British tried to keep these in check, not by strengthening Parliament or an independent judiciary, but rather by empowering the tribes (see next section). This legal and political furthering of the countryside helped to drive a wedge between the tribal sheikhs and the urban mujtahids, effectively depriving the latter of the armed support that the former could have supplied to their political aspirations. It also turned out to have comparable repercussions for Kurdish aspirations.

5.5   Governing Iraq's Kurds: Between tribalism and religion

The British policy (or lack thereof) vis-à-vis the Kurds was another major dimension of mandate rule.[13] Iraq's Kurds were predominantly Sunnis but, unlike Arab Sunnis, they belonged to the Shafii rather than the Hanafi madhhab. Among them, Qadiri and especially Naqshbandi sheikhs had a large following in both urban and rural areas. Sheikh Mahmud (who, as a Qadirî Sufi, tended to be less strongly anti-Shiite than the Naqshbandi sheikhs), had given heed to the Shiite call to join the jihad against the 1914 British invasion of southern Iraq. But soon after, he and other Kurdish leaders started following British policies rather than Shiite insurgents or Turkish propaganda. Remarkably, the 1924 Turkish abolition of the caliphate does not appear to have created any great commotion one way or the other; thus, Sheikh Mahmud's official paper, 'Umedy Istiqlal', only mentions the dramatic developments in passing, and without any commentary.[14]

Domestically, the most remarkable fact about this period is that religion was a rather less emphatic element of the policies of both British mandate authorities and the monarchical government than were nationalism and tribalism. This applies to their policies towards the Kurds as much as towards the Shiites. Among both groups, British encouragement and co-optation of tribal and rural groups cut away the support they might have given to urban movements.

It has been argued that British communalist policies in India solidified sectarian differences between Muslims and Hindus into politically significant communalist identities, but they did not create ethnicities out of nothing. Obviously, there were pre-modern forms of religiously and lin-

guistically based ethnic awareness (or *ethnies*, as Anthony Smith would call them), but these did not yet form the basis of anything resembling identity politics. More importantly, such forms of identity politics during the nineteenth century were themselves in a process of rapid development worldwide. What British policies did, both in India and in Iraq, was to institutionalise and rigidify existing cleavages.[15] Unlike in colonial India, however, in mandate Iraq, it was less communalist differences between religiously defined groups or ethnic differences between Arabs, Kurds and others, than a strict, and politically decisive, cleavage between rural and urban or tribal and non-tribal social groups that informed British policy. This tribal policy, which Cole (2004) has baptised the 'J. R. R. Tolkien strain of British colonialism', emphasised the essential purity and nobility of the countryside as opposed to the corruption and fickleness of the cities and, in particular, its political leaders. In a move bearing some resemblance to the notorious 1930 Berber Decree, by which the French rulers in Morocco attempted to consecrate perceived differences between the predominantly Arab cities and the predominantly Berber countryside in Morocco, the British promulgated a Tribal Criminal and Civil Disputes Regulation (TCCDR) in 1918; it was officially made part of Iraqi law by royal *irâda* in 1924. This tribal regulation marked a step backwards regarding the legal equality towards which the Mecelle had worked: individual rights were now subordinated to tribal authority.

In Morocco, the promulgation of the decree provoked a fierce nationalist backlash, thus strengthening the very national unification it had actually sought to prevent. In Iraq, however, the tribal regulation appears to have been enacted without major opposition. It formed part of a hastily implemented policy in the wake of the 1920 revolt, which involved less the use of religious authority against secular nationalist forces than the strengthening of rural tribal authority against urban-based forms of protest against the British mandate. In this period, religion appears to have been only a minor mobilising factor, or concern of government.[16] The mandate's setting-up of a great divide between city and countryside, with the latter being judged on the basis of collectivist tribal interests as opposed to the rights of the individual, might be called 'tribal communitarianism'. Although it was, to all appearances, driven by British domestic concerns about preserving the purity of the countryside and by British experiences in governing the tribal region of India's North-West Frontier Province these policies in fact had an Ottoman precedent in Abdülhamit's policies. As said, Abdülhamit's pan-Islamic efforts do not seem to have met with great success in Iraq. Vague sentiments of Muslim solidarity were always present among the Muslim subject peoples, but these did not materialise into an enduring political mobilisation of Iraqis.

The Young Turk era had witnessed some attempts at rearticulating the Shafii *madhhab* as the official religion of a future Kurdish state. In 1910,

several Kurdish sheikhs from Badinan petitioned the Young Turk author-
ities, demanding a greater autonomy for their region, involving the
adoption of Kurdish (presumably the Kurmanji dialect) as the language
of administration and education, and the administration of the law accord-
ing to the Shafiite *madhhab*.

In the Kurdish areas, it was especially Major Noel who pushed for a
policy of re-tribalisation, much against the judgment and recommenda-
tions of another local British official, Major E. B. Soane, who in a 1919
memorandum (in McDowell 1996: 157) noted that the southern part of
Kurdistan had in fact undergone a substantial detribalisation, and hence
considered this tribal policy a 'retrograde movement' that was bound to
create instability and discord. The net effect of these policies was indeed
a weakening of the demands of urban Kurdish nationalists. By pursuing
these tribal policies, then, the Iraqi administration created in the early
1920s managed to establish not only Sunni rule over a Shiite majority,
but also Arab rule over the non-Arabic peoples of northern Iraq, thus
reneging on earlier British promises or suggestions about an independent
Kurdish state.

Iraq's Kurds had an ambivalent relationship with the king. In dealing
with both Kurds and Shiites, Faysal had to engage in a delicate balancing
act; on the one hand, he needed the Kurds as a counterbalance to the
Shiites: if they would not remain in Iraq but split off into a separate state,
it would become much more difficult for him to claim legitimate rule over
a vast Shiite majority of the population. On the other hand, Faysal's intent
seems to have been on sidelining both Kurds and Shiites in the actual
policymaking process. All this is not to exonerate the British from double-
dealing with the Iraqis, in particular, the Kurds; on closer inspection, it
becomes clear exactly how erratic and ambivalent their policies often were.
After first promising Mahmud an independent Kurdish state, the British
quickly set their hopes on the integration of the Mosul vilayet in Iraq. After
1925, all that remained was a rather weaker recognition of the Kurdish
right to set up a Kurdish government *within* the boundaries of Iraq, the
same provisions also promising to protect the rights of religious minorities
in the region (primarily the Assyrian Christians and heterodox groups
like, most importantly, the Yazidis). As said, the main concern in British
policies towards the Shiites and the Kurds appears to have been tribalism
rather than religion or even ethnicity – witness the inconsistencies in the
promotion of a language-based nationalism among the Kurds.

Despite Soane's early activities, including editorship of the Sorani-
Kurdish newspaper *Tegeyshtiny Rasti* (the title of which translates to 'un-
derstanding the truth') in Baghdad, where he did much to spread and
develop the public and printed use of Kurdish, it would be a serious dis-
tortion to suggest that Kurdish nationalism in Iraq was a mere product of
British imperialism. All nationalisms in the former Ottoman Empire had

emerged already in the course of the nineteenth century, gaining pace in the Hamidian era and openly emerging during the Young Turk years (see Vali 2005; Özoglu 2004). Nor was the encouragement – let alone the re-alisation – of Kurdish aspirations an unambiguous part of British Iraqi policies. The use of Kurdish (and more specifically, the Sorani dialect spoken in the newly emerging centre of Sulaimaniya) as a language of administration in the Mosul vilayet was as hotly debated among British policymakers as among Iraqi officials (and, indeed, among speakers of different dialects of Kurdish). A pledge to protect the Kurdish and other non-Arab ethnic groups of northern Iraq had in fact been imposed on Britain by the League of Nations, after the International Court of Justice had assigned the Mosul vilayet to the new Kingdom of Iraq, rather than the Republic of Turkey, on the specific condition that its minorities should be protected and supported.[17]

The Iraqi government had little if any intention to implement the promises made by the British at different stages. It was not until April 1930 that it promised to promulgate a local languages law, allowing for the use of Kurdish in administration and education. This law was passed in a much watered-down version the following year and its actual imple-mentation took even longer.

5.6   Comparisons, influences and interactions

The study of Iraq under the mandate and during the early monarchy invites comparison with other places and periods. The most obvious case for such comparison is, of course, post-2003 Iraq: in some respects, the parallels with (not to mention repetitions of the errors of) the mandate period are astonishing.[18] While these parallels and lessons are obviously of great policymaking relevance, we will not explore them here. Instead, we will argue that a systematic confrontation with other periods and parts of the world is not only useful, but actually indispensable for an adequate un-derstanding of developments in Iraq, as British and even Ottoman policies in Iraq were shaped in interaction with developments elsewhere.

Mandate Iraq may be instructively compared with the newly indepen-dent states of republican Turkey and Pahlavi Iran. The differences with Turkey are vast, despite the centuries of shared Ottoman history. In Turkey, the new Kemalist elites engaged in turning the country into a staunchly secular state and quickly proceeded to eliminate all Sufi orders and other centres of religious learning and authority. After World War II, it evolved into what may – with qualifications – be called a liberal and secular multiparty democracy, which strictly adhered to a French-inspired separation of church and state (i.e. *laiklik*). Until 2003, Iraq saw something like a reverse development: under the monarchy, liberal and secular, the

Iraqi government pursued far less radically anti-religious policies than its Turkish counterpart; after 1958, however, and especially after the second Baath coup in 1968, it developed into a radically secular socialist form of one-party rule and, ultimately, into a totalitarian state, the horrors of which were exceptional by any standards.

The comparison with Iran – where the Kemalist-inspired secular policies of the Pahlavis were largely undone by the 1979 Islamic Revolution – is even more intriguing. Despite the numerical majority of Shiites in Iraq, no similar religious revolt took place there. What differences in the structure or developments of the Shiite religious hierarchy made the Iranian clergy so much more ideologically radical, societally stronger and politically more effective than their Iraqi counterparts? Another question is why Iraq's Shiites remained overwhelmingly loyal to the existing secular Iraqi state in its eight-year war with the Islamic Republic of Iran. Was this due to the enduring strength of Arab or Iraqi nationalism, to government repression or to other factors? The answer to both questions requires looking beyond national boundaries and nationalist assumptions.

A different kind of comparison is with other, contemporary forms of colonial rule in the Middle East and elsewhere. On the one hand, one may confront the British mandate over Iraq with the French mandate over its neighbour Syria.[19] On the other, one may contrast Iraq under the mandate with the experience of other British colonies, most importantly Egypt and India. The latter two are of particular relevance here: indeed, British policies in Iraq and the actions of the Iraqi government under and after the mandate were in part inspired by British colonial models imported from both Egypt and India. Perhaps, however, one should not overestimate the extent of such parallels. First, one should not overemphasise the coherence or hegemony of any one vision or policy. Dodge (2003: 7) has noted that among British policymakers for and in Iraq there were often fierce rivalries between the Delhi-based India office, the Cairo-based Arab bureau and the political office of the India office in London. Personnel from all three offices were sent to Iraq, often treating that country in the terms they had become familiar with elsewhere. As a result of these and other rivalries, local British policies were often haphazard, contradictory and based on conventional stereotypes (or even individual whims) rather than empirical data.

Second, one should not be blinded by such similarities, which at first glance are overwhelming. Thus, both in Iraq and Egypt, Ottoman jurisprudence was replaced by a system of mixed courts rather than of purely state-based courts as Turkey was to do. (In fact, it was the very same person, Abd al-Razzâq al-Sanhûrî, who drafted new civil law codes for both Egypt and Iraq.) Following the period of British rule, both countries went through a period of monarchic rule often qualified as 'liberal'; both also witnessed revolutionary regime change in the 1950s. In time, Nasserist

Egypt, itself modelled on European Eastern Bloc states, was to become a formative influence on Baathist Iraq and other Arab countries, leading to the formation of the so-called *mukhabarat* state dominated by a single party backed by army and security forces and informed by staunchly secular – if not anti-Islamic – socialist and Arabic nationalist rhetoric.

Despite these far-reaching parallels, the differences are equally telling. To begin with, the British presence in Iraq (1914-1932) not only started much later than in Egypt, let alone India, but it was also qualitatively different. In the increasingly anti-colonial post-World War I climate (most importantly, driven by both the Russian Revolution and by American president Woodrow Wilson's advocacy of self-determination), a full annexation of Iraq was out of the question. Instead of colonising or annexing territories, Britain and France gained mandates over different parts of the Arabic Middle East, with the proclaimed aim of encouraging the creation of a local administration and working towards full independence and membership of the League of Nations.

A second factor was that Iraq was rather less clearly historically or territorially defined than Egypt. Despite the presence of a substantial Coptic minority – and, prior to the 1950s, despite the presence of Turks, Circassians, Albanians and others among the ruling elites as well as of even smaller but still significant communities of Jews, Greeks and Italians – Egypt's population was overwhelmingly Arab and Muslim. Iraq, however, knows a rather greater ethnic and religious diversity: not only are there Arabs, Kurds, Turcomans, Assyrian and Armenian Christians, plus various smaller heterodox religious groups, but more importantly for our purposes, the numeric majority of the population is Shiite. This is not to suggest, of course, that these ethnic or sectarian identities were primordial or timeless – in fact, as noted above, many Shiites were very recent converts. But in Ottoman and later British perceptions, Iraq was a more fragmented and decentralised whole than the Nile valley: it was rather less involved in transit trade and, prior to the 1920s, knew no major administrative centre like Cairo.[20]

Convergences, differences and indeed connections with British colonial India are even more suggestive. British religious policies in Iraq, however, were not communalist as they were in post-1858 India: they did not systematically aim at the fixation and political instrumentalisation of religious or sectarian groups as the primary basis for representative politics. Insofar as there were specifically religious policies, they were directed primarily at the Shiites, who formed the numerical majority of the population. More importantly, as we will discuss in our conclusion, the administration of Iraq was particularly inspired by the governmental style of British India's predominantly tribal North-West Frontier Province. In the case of Iraq, however, colonial practices of divide and rule were based less on religious communalism than on ethnic and especially tribal factors.

Thus, the liberal secular Iraqi monarchy was shaped and informed by what one might call a form of tribal communitarianism. In short, the confrontation with the colonial and post-colonial experiences of countries like Egypt and India does not only serve the purpose of comparison: such transnational contacts and connections were actually constitutive of the experience of mandate Iraq.

5.7 Conclusions

One can only speak of British governance of Islam in Iraq up to a degree. British mandate authorities do not appear to have any religious policies in the strict sense, beyond their propaganda efforts depicting the Turks as chauvinistic and hence harmful to Muslim interests, and the British as better protectors of Islam. The emergence of an Iraqi state that was both Arabic and secular was less the result of a democratic and liberal process aimed at granting all individuals and groups equal rights and liberties than of concerted efforts at both co-opting and sidelining the Shiites and the Kurds. In the decades to follow, these features were consecrated in Iraq's consecutive constitutions, all of which maintained the fiction of representative government, Islam as the state religion, freedom of conscience and autonomy for the Kurds as a minority. In the secular climate of the 1960s and 1970s, the Baath regime posed as radically anti-clerical and could easily delegitimise Shiite aspirations, often voiced by religious leaders, as retrograde or obscurantist. In due time, Iraq's Arabic and secular character came to be treated as matters of course rather than as highly ideological and debatable constructs. The story of how this secular Arab nationalist identity came to be hegemonic remains to be told, but a genealogical and interactional analysis reveals how contingent these developments were and how intense the power struggles that could easily have had a different outcome were. British mandate policies in Iraq did not arise in a vacuum: they were shaped both by British experiences earlier and elsewhere and – at least equally importantly – by Iraq's recent past as part of a rapidly changing Ottoman Empire and an extremely volatile regional environment. Likewise, local reactions were shaped by the newly pluralist and increasingly polarised political climate of the Young Turk era, in which various Ottomanist, nationalist and pan-Islamic doctrines and movements competed for popular support. The eventual victory of secular (or more correctly, Sunni-dominated) Arab nationalism in Iraq was as much due to the activities of King Faysal as to British divide-and-rule policies. Especially in his dealings with the tribes and the Shiite population, Faysal appears as a shrewd politician, who against various other local actors – and in part against British wishes – managed to establish the kind of Arab Sunni rule in Iraq that was to last until 2003.

Against political-economy-based analyses like Al-Khafaji's (2003), one may argue that the rise of Iraq as a secular and Sunni-led Arab state – let alone the repressive rentier state that emerged under Saddam Hussein – was by no means the inevitable result of anonymous historical processes or structural factors. Rather, it was the result of very specific and often fiercely contested policy decisions by individual actors both inside Iraq and abroad. Likewise, the decline of the political influence of Iraq's Shiite ulama after 1920 and the rise of more secular Arabic (and Kurdish) nationalist ideologies can be attributed to very concrete, and in part contingent, causes.

The dramatic changes and developments of the 70-odd years between the establishment of an independent Iraqi state and the ousting of Saddam would deserve a study of their own, but present-day religious mobilisation appears to be qualitatively different from the kind discussed above. The reason for these differences is, obviously, the new forms of party organisation initiated by the Iraqi Communist Party, which were subsequently copied by other parties, and the experience of totalitarian attempts at dominating both public and private life in post-revolutionary Iraq; internationally, we can point to the development of Islamic ideas into full-fledged political ideologies. The post-2003 re-emergence of the Shiites as one of the most powerful (if not the most powerful) social and political forces in the country was due in part to the suppression of all secular alternatives (most importantly, the Iraqi Communist Party and the independent trade unions) by the Baath, in part to the new political activities of respected religious leaders like, most importantly, Al-Sistânî, and in part to the continuing activity of Iranian-backed Shiite political movements like the Da'wa and the Supreme Council of the Islamic Revolution in Iraq (SCIRI). The political assertion or reassertion of religion may be a worldwide phenomenon, but the particularly violent shapes it has taken in Iraq reflect that country's special, if not unique, post-colonial and post-totalitarian experience. The emergence of sectarian politics, however – and even more, the sectarian urban violence that peaked between 2004 and 2007 – are qualitatively novel phenomena in Iraq and defy explanations in terms of domestic structural factors.

Notes

1   For an overview of twentieth-century political developments, see Tripp (2003). A good account of developments under the Baath is Farouk-Slugglett and Sluglett (1987).

2   See Van der Veer (2001), who is especially indebted to Said (1993); but comparable tendencies may already be found in works by earlier anthropologists, most famously Wolf (1982).

3   For criticism that such approaches boil down to denying the effects of imperialism see, for example, Chatterjee (1993: 27-29).

4   See Longrigg's old but still influential history of Ottoman Iraq (1925), which presents a depressing and monotonous litany of dynastic incompetence and tribal infighting; but a similar imagery of stagnation still informs recent overviews like Polk (2005: 61), which argues that nineteenth-century Iraq had disintegrated into a 'primitive, almost pastoral society'.

5   See the papers collected in Owen (2000).

6   See, for example, Abou-Manneh (1994). In arguing that the reforms were shaped and justified by a traditional Islamic sense of justice, Abou-Manneh slightly overstates his case and downplays the novelty of legal equality for Muslims and non-Muslims.

7   This has been argued for Kurdish tribes in the Ottoman and the Qajar Empires by Van Bruinessen (1992), but it also applies to tribes in other parts of the Ottoman Empire.

8   For a comparative sociological study of the early twentieth-century constitutional movements worldwide and of their failure, see Kurzman (2008).

9   For an even more detailed account of the political activities of the Shiite mujtahids in Iraq, see Luizard (1991).

10 Abrahamian (1993, especially chapter 1; Zubaida 1993, especially chapters 1-2).

11 For the Arabic and, in part, English texts of the successive Iraqi Constitutions, see http://www.niqash.org. For a translation of the 1925 Constitution, see *British and Foreign State Papers* (1926, part I, Vol. CXXIII, London, 1931: 383-402).

12 As quoted in Al-Wardi (1992).

13 Surprisingly, a detailed attention to things Kurdish is virtually absent in Dodge's (2003) otherwise meticulous study of British policies in Mandate Iraq.

14 See especially 'Umedy Istiqlal', No. 14 (13 December 1923) concerning the abolition of sharia courts and No. 19 (20 March 1924) concerning exile of the Ottoman caliph.

15 Thus, Haj's (1994) argument that ethnic and sectarian divisions were basically British creations ex nihilo is as overstated for Iraq as it would be for India.

16 Al-Wardi (1992) actually emphasises that the political mobilisation of the Iraqi masses (the *amma*) did not take shape until the two decades following the constitutional revolutions.

17 See Sluglett (2007: 85-86). In 1992, on the basis of this document, chapter co-author Michiel Leezenberg interviewed several Iraqi Kurdish tribal leaders, organised in the Kurdistan Conservative Party, who were pushing for a UN protectorate over the Mosul vilayet.

18 See, in particular, Eisenstadt and Mathewson (2003). Likewise, the concluding chapter of Dodge (2003) discusses the enduring legacy of British mandate policies in Iraq.

19 See Meouchy and Sluglett (2003).

20 Isam al-Khafaji (2004) has challenged the oft-repeated claim that Iraq is an arbitrary and unworkable amalgamation of Kurds, Sunni Arabs and Shiites, instead arguing that it has long been an economically integrated whole. He overstates his case, however, downplaying the significance of mercantile, cultural and religious connections between the Shiite shrine cities and Iran and India, between the Kurdish centres and the Iranian world and between Mosul and its trade partner, Aleppo.

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Chapter 6
The idea of a Muslim community:
British India, 1857-1906

Faisal Devji

6.1   Introduction

The Muslim 'community' emerged in India during the nineteenth century
as a direct consequence of colonial rule. With the destruction of royal and
aristocratic forms of power in British territory, these indigenous sources
of profane authority were displaced by religious ones, which for the first
time stood free of the formers' tutelage (Devji 2007a). In other words, it
was the Muslim community's separation from political authority that
made it a religious entity in the modern sense. Yet by freeing Islam of
such profane elements, the secular politics of colonialism freed it from all
inherited forms of authority, making the Muslim community into a site
of competition between different groups of divines and laymen. The birth
of this new collectivity was signalled by its adoption of a name unknown
to history, with Muslims in the nineteenth century calling themselves a
qawm, an Arabic word meaning something like 'tribe' or 'people' that had
rarely been used to describe religious groups in the past (Devji 2007b).
Eventually, this word would become an equivalent for the equally novel
term 'nation' in South Asia. Notwithstanding their reference to ties of kith
and kin in other contexts, neither community nor *qawm* were names used
to describe local forms of Muslim belonging, being deployed instead to
represent the disparate, dispersed and merely demographic collection of
Queen Victoria's Muslim subjects.

While its demographic boundaries may have been mapped by the
colonial census and its juridical borders by Anglo-Muhammadan law, the
Muslim community was occupied by Indians themselves in different ways.
Indeed, it soon became the site of great struggles between Muslim groups
in northern India, primarily Sunni clerics and their relatives among the
laity. Both these groups belonged to the same class of minor landholders,
administrators and bureaucrats, all Urdu-speaking, who had been
liberated by colonial rule from the kings and nobles they had once served.
Fully conscious of their independence, these men called themselves '*sharif*'
('wellborn'), and set out to recast Islam in their own image, thus lending
the *qawm* some substance as an ethnic category. It was the laymen who
set the terms of debate in this struggle and especially those who gathered
under the 'reformist' and pro-British sign of the Aligarh Movement whose

project to modernise Muslims was named after a town in the United Provinces that was home to its great institutions, the Muhammadan Anglo-Oriental College (later Aligarh Muslim University) and the Muhammadan Educational Conference. Aligarh was also the base of the movement's founder and guiding spirit, the influential moderniser Sayyid Ahmad Khan.

During the nineteenth century, this new Muslim community was anchored by the rival institutions of both reformers and traditionalists, as well as being addressed and represented in the outpouring of pamphlets, journals and books produced by these groups. It was not until 1909, however, that the community became a formal political actor, when the British introduced limited franchise to India, with legislative seats being reserved along religious lines, thus producing a separate Muslim electorate. But this meant that the North Indian Muslims who had dominated debate on the community's future suddenly become a minority among their co-religionists, whose superior numbers they finally had to acknowledge by handing leadership to the Punjabi landlords, Bengali trades unionists and Gujarati merchants, who all came together in the Muslim League. The word 'qawm', of course, eventually came to refer to India's Muslims as a nation represented by the League, though this did not happen until after the 1937 elections. But even with the rise of the Pakistan Movement in the 1940s, this term and its English equivalent, 'community', continued being used of Muslims in a non-national sense. In today's India, for example, the Muslim minority is still called both a 'qawm' and 'community', as indeed are all religious groups despite the fact that 'qawm' is also the word for 'nation'. The non-political history of the Muslim community, then, continues to exist alongside its nationalist past, lending this collectivity great depth and complexity.

In this chapter, I will be concerned only with the nineteenth-century history of the Muslim community in North India, specifically with its elaboration within the Aligarh Movement. My concern is not with the juridical 'construction' of this community, but rather with the way in which Aligarhists defined the qawm as a non-political entity. In reformist writing, the English word 'politics' was usually transcribed directly into Urdu as something complementing but not identical to the older term 'siyasat', or other terms for 'governance' such as 'hukumat' and 'saltanat'. Politics, in other words, was not only conceived as a new field of action, but also as one that displaced siyasat to some extent. This latter had been a branch of ethics, consisting in the ruler's virtuous administration or even nurturing of different ranks and grades among his people. Politics, on the other hand, did not participate in ethics but created a new space for relations of power that were more or less neutral, having marginalised the old domain of ethical nurture in favour of a practice in which power was both sought and deployed according to principles that no longer

coincided with those that defined virtue in its traditional forms.

Siyasat was not entirely done away with, but survived as the virtuous action of government, which now consisted in the enactment of law as something that created a society rather than simply governing the relations between different estates. Law, in other words, could no longer be applied to pre-constituted polities, but only imposed on a more or less amorphous mass, thus acting as the principle of form for a mass as content. But the retention of a marginal and reformed *siyasat* rendered this new space of politics somewhat ambiguous. For while it was recognised that both government and subjects could engage in a politics that was autonomous of ethics, any action against the good as defined by law was still seen as being unethical. This is why the very word 'politics' was used as an accusation in the nineteenth century and why Muslim reformers were always careful to define their activities as religious or educational instead. In this chapter, I intend to explore such reformist practices conducted in the shadow of politics by looking at some of the ways in which Urdu-speaking Muslims grappled with the decline of *siyasat* and sought to rethink social relations outside the ethical boundaries of the past.

6.2   Islam's invisible body

As a colonised entity, the Muslim community was able to admit neither *siyasat* nor politics into its practice. In this situation, only two forms of discourse presented themselves as sites for a politics denied, the association and the press, whose role is aptly characterised by the satirical poet Akbar Illahabadi, perhaps the Aligarh Movement's most popular and perceptive critic.

> *Tamam qawm 'editor' bani hay ya 'leader'*
> *Sabab yeh hay ke koi awr dillagi na rahi* (Illahabadi 1990: 123)
> ('The entire community's become an editor or a leader
> The reason's this that there's no other occupation left')

Muhsin ul-Mulk, Sayyid Ahmad Khan's right-hand man and successor at Aligarh, was merely pointing out the obvious to his audience at the Muhammadan Educational Conference of 1890, when he reminded them of the novelty of their meeting. We have not been summoned here, he said, by royal edict. Neither do we attend out of feudal duty, for commercial gain, in order to witness a spectacle, criticise and lobby the government, or create religious dissention. Rather, we have congregated voluntarily and out of concern to sympathise with the community and work for its uplift (Ali Khan 1913: 44). In the space of this single paragraph, the Nawab dismissed all the traditional functions of association. Instead, he

promulgated a strange kind of organisation that was so dependent on individual, autonomous will that it became void of all moral relationships of a collective kind: an association that was nothing in itself, which neither constituted the polity, nor represented it, nor did it establish dogma because its referent was autonomous and outside. Such an organisation existed as a place apart from life itself or, as Akbar Illahabadi puts it, using the word 'camp' to indicate this colonial form of order.

> *'Camp' hi men nazar ati hay unhen quwwat-e qawm*
> *Varna basne ko to dehat bhi hay shahr bhi hay* (Illahabadi 1990: 60)
> ('They only see the community's strength in the camp
> Otherwise there are both country and town to live in')

The Aligarhist association did not spring fully grown from the head of tradition. Indeed, the poet and critic Altaf Husayn Hali, who was Sayyid Ahmad Khan's associate and biographer, suggests that in its early years the organisation (he is referring primarily to the sessions of the Muhammadan Educational Conference) in fact acted as a refuge for practices such as poetic recitation, whose own public spaces had been destroyed (Hali 1967: 244). Hali claims that Sir Sayyid, as he was called, encouraged this collapsing of traditional practices into the new venue of the association in order to attract people to the conference and reduce its foreignness (Hali 1967: 246). This would mean that the early *sharif* organisation did not have an altogether clear relationship to the community or, for that matter, to the colonial state. By 1904, however, when Hali's essay was written, such practices had become atavistic to the extent that Hali, himself a prominent reciter of poetry at Aligarhist meetings, called for their suppression (Hali 1967: 245). And this meant that the association's relations with both community and state had to be redefined.

The association objectified the community, even inventing it as such, by prescribing for its ills from the outside. It did not constitute or represent the *qawm* but rather advised it; its relationship to the community was purely didactic. And it was the dominance of this one-sided relationship that probably explains why the issue of representation does not seem to have been taken seriously within the community during the whole course of the nineteenth century. Indeed, the Aligarhists considered their leadership to be a kind of *farz*, i.e. moral obligation, which had nothing to do with representation or consent. Akbar Illahabadi (1990: 133) ridicules this novel pedagogic duty of the association in a couplet.

> *Kyun nahin parta aql ka saya*
> *Is ko samjhen farz kifaya*
> ('Why doesn't the shadow of intelligence fall?
> They consider this a collective moral obligation')

Such a conception of leadership differed from the British idea of the Aligarhist as a natural or representative leader, an idea implying some kind of consensual relationship with the *qawm*. For most of the nineteenth century this misunderstanding remained undisturbed, but when groups such as the Indian National Congress and non-*sharif* societies across the country began claiming to speak for Muslims, representation – or at least a representative character – suddenly became a major issue and the gentry's *qawm* was destroyed forever. The Aligarhist association, however, did more than just preach to the community. Its displacement of older political practices was not simply evolutionary but tactical, in that the latter were now rendered not irrelevant so much as unreflective; they became content, objects to be examined, and no longer sites or practices that retained the power of commentary or criticism. The split between ethics and politics this entailed is poignantly described in a verse of Akbar Illahabadi (1990: 20).

> *Qawm ki masjid men kijiye jhar phonk*
> *Aspitalon men woh achhi ho chuki*
> ('Go on and pray for the community in the mosque
> She's already been cured at the hospital')

This objectification of the community as unreflective content indicates that it had become a kind of shapeless mass that could only be grasped by the principle of form, or rather by giving it form. And this is what the association did, passing resolutions in order to give the *qawm* shape and order. Akbar Illahabadi (1990: 130) again ridicules this rather desperate effort at form in the following couplet:

> *Resolution hi ke takhte ka sahara le kar*
> *Bahr-e tadbir-e taraqqi men bahe jate hain*
> ('With only the aid of a resolution
> They are tossed into the ocean of the principles of progress')

Akbar Illahabadi (1990: 177) pokes fun at the result of such efforts to give the community an institution form in these words:

> *Main ne jo kaha 'dekho to zara ab qawm pe kaysa joban hay'*
> *Woh hans ke lage kahne 'sahab yeh qawm nahin hay paltan hay'*
> ('When I said, "Take a look now at the community's new youthfulness"
> He laughed, saying, "Sir, this isn't the nation, it's a regiment"')

Now the community's status as object or content did impose on the organisation the task of representing it, but such representation remained

descriptive and did not translate into political representation. Furthermore, this adoption of description did not signal any alienation of subject from object because the *qawm* was not in fact the association's referent; it did not yet exist as an object of knowledge. What was at issue was proper practice, as in the old ethics, and not a problematic of knowing things-in-themselves. So while the community was represented as an object, one could only be alienated from authentic practice and not from the *qawm* as such. This is why Akbar Illahabadi (1990: 177) treats the separation produced by such representation so lightly, because it has simply replaced the old mystical problematic of knowing the ineffable.

> *Apke darshan musawwir ke bhi hissa men nahin*
> *Bas liya jata hay 'photo' hi se 'photo' apka*
> ('The sight of you is not even in the artist's fortune
> One can only take your photo from a photo')

The Muslim community was always given to the Aligarhist organisation and not problematised as such until the twentieth century. But what is ontologically secure is not by definition topologically fixed. Given the fact that the *qawm* was de-territorialised, or rather grounded only by textual and monumental fragments, how was it to be located for the purposes of the association? Or as Hali (n.d.: 127) puts it in the *Musaddas dar Madd-o Jazr-e Islam* ('*Elegy on the Ebb and Flow of Islam*'), his epic narrative of the community's decline:

> *Khoj un ke kamalat ka lagta hay ab itna*
> *Gum dasht men ek qafilah-e be tabl-o dara hay*
> ('The search for the community's wonders now proceeds with
> such fervour
> Like a caravan lost in the desert with neither drum nor bell')

Where then is the *qawm* to be found? The historian Shibli Numani, who was closely associated with the Aligarh Movement, provides an answer in his own *Qawmi Musaddas* ('*Community Epic*') of 1894, composed for a gathering at the Muhammadan Anglo-Oriental College. This *Tamasha-e Ibrat* ('*Cautionary Spectacle*') included the appearance on stage of Sir Sayyid and other luminaries dressed in historical garments to invoke the community, a curious spectacle indeed, and one that perhaps provides a model for the Aligarhist association. Shibli begins by comparing this spectacle to other forms of staged representation. Does the audience expect the god Indra to appear on the proscenium, he asks, referring to an early Urdu play, the 'Indar-Sabha' ('Indra's court') (Shibli Numani 1979: 21)? Already, therefore, theatrical representation is rendered problematic by being, as it were, Hinduised. No, the community cannot

be represented in this way, says Shibli.

> *Doston kya tumhen sach-much tha theatre ka yaqin?*
> *Kya yeh samjhe the ke parda koi hoga rangin?*
> *Nazar ayegi jo soti hui ek zehra-jabin?*
> *Ayega phul ke lene ko aram ka gulchin?*
> *Qawm ke bazm ko yun khel-tamasha samjhe*
> *Haye gar ap yeh samjhe bhi to beja samjhe* (Shibli Numani 1979: 22)
> ('Friends, did you really expect a theatre here?
> Did you expect some colourful curtain
> Behind which would appear some sleeping beauty?
> And a gardener come to pick this blossom?
> This would be to consider the national assembly a playful specta-
> cle
> Alas, if you expected such, you did expect it wrongly')

Representation, in other words, was troublesome precisely because it transformed the community into a materiality, or even better, a fetish; into images of pagan deities and abducted beauties. How then was this spiritual entity to be located or made present? Not by an aesthetic or political representation, to be sure, but as a haunting, as a ghost. Thus Shibli describes the actors in this drama as persons who are possessed by the *qawm*, persons through whom it speaks. That is to say the Muslim becomes here not part of a community so much as its channel. Indeed, this is the only way that the *qawm* can be simultaneously present and absent.

> *Tujh pe ay qawm asar karta hay afson jin ka*
> *Yeh wohi the ke ragon men hay tere khun jin ka* (Shibli Numani
> 1979: 24)
> ('The stories of those men that affect you, O community
> These were the same men in whose veins your blood flowed')

Here, Shibli refers as much to the gentry's ancestors as to the actors who can only invoke the community by miming them. In the following hemistich, he describes the actors themselves and so by extension all good Muslims.

> *Qawm ke khab-e pareshan ki yeh tabiren hain* (Shibli Numani 1979:
> 22)
> ('They are the builders of the community's scattered dream')

Could this be the dream of that sleeping beauty described earlier? A dream that is the only remnant of a community spirited away?

6.3   Nationalism and the problem of representation

On 16 March 1888, Sir Sayyid delivered a speech at Meerut that set the tone for Aligarh's relations with the Indian National Congress. Up until that point in time, he said, one disapproved of the congress but ignored it as having nothing to do with Muslims. But later, the Indian nationalists had begun to interfere in the affairs of the *qawm* by claiming its support in order to make them truly representative (Ahmad Khan 1973 Vol. 1: 30). Sir Sayyid saw in this interference a threat to the more plural politics he advocated, and expressed his shock at the alleged pressure applied by the congress to garner token Muslims for their movement (Ahmad Khan 1973 Vol. 1: 31). But his tirade against these unrepresentative congress Muslims also problematised Aligarh's own claims to representation. Sir Sayyid was committed to the concept of natural leadership, but in order to uphold this he had to demolish the imperious claims of the Indian nationalists. And the best way to do this was to deny the very existence of a representable Indian nation. So Sir Sayyid not only calls the congress a Hindu organisation whose populist politics would end up suffocating Muslim interests (Ahmad Khan 1973 Vol. 2: 13-16), but he also claims that it is basically a Bengali party that has nothing to do with the Hindus of the north, being in fact inimical to their well-being:

> The Hindus of our country/region [*mulk*] should understand that while their condition is to a certain degree better than that of the Muslims, it is not so good that they can run and come out ahead of us. We are all the inhabitants of the same country. There are many Hindus who have been infiltrated by Muslim habits – such as my friend Sir Kayasth. Their customs and conditions are not so much more advanced than ours. Whatever will be our fate, so too will be the fate of the Hindus of this country [*mulk*]. This is why whatever I'm saying is for the good of all the inhabitants of the country. (Ahmad Khan 1973 Vol. 1: 34)

Sir Sayyid's anxiousness to preserve the unity of his region was doubtless sincere. He interpreted Hindu support for the congress as a divisive move by which they gained Bengali support and attempted to lord it over the Muslims, forcing them to abandon offensive customs like cow slaughter. But such pressure simply resulted in more conflict (Ahmad Khan 1973 Vol. 1: 34-35). In order to maintain the unity of his region in the face of Indian nationalism, Sir Sayyid tries to combine the *sharif* Hindus and Muslims of the north into an anti-Bengali alliance.

> Every people [*qawm*] not just Muslims, but all this country's Hindus, honoured kings and brave Rajputs who remember the swords of

their fathers, will they tolerate the command of the Bengali who falls from his chair upon seeing a [table] knife? Not a piece of this country will remain where faces other than Bengali ones will be seen at the table of command and justice. We say we are happy that only our Bengali brother should progress, but the question is, what will happen to the state of the country's administration? In your opinion, can the Rajput or fiery Pathan, who do not fear the noose, the police, or the army, live peacefully under the Bengali? (Ahmad Khan 1973 Vol. 2: 14-15)

Let those who live in Bengal worry themselves: they can do what they want and not do what they don't want. Neither their character [*tabiat*] nor their condition [*hal*] is that of our countrymen. So what's the point of the people of our country joining them? (Ahmad Khan 1973 Vol. 1: 35-6)

Stung by congress accusations of cowardice and sycophancy, Sir Sayyid responded by belittling the Bengal Agitation as a feeble scratching of pens and a babbling of tongues that the British could afford to ignore (Ahmad Khan 1973 Vol. 2: 22). But if the Muslims or Rajputs agitated, he says, they would pose a real threat and be dealt with accordingly (Ahmad Khan 1973 Vol. 2: 20-1). This bluster culminates in Sir Sayyid threatening the congressmen with Muslim wrath were they to remove the British from India.

At the time when our Muslim Pathan brothers emerge from their mountain valleys, they will bathe Bengal from one end to the other with rivers of blood. (Ahmad Khan 1973 Vol. 1: 37)

Eventually, Sir Sayyid is forced to concede the possibility of a nationalist victory over his parochial pluralism and he despairingly casts the fortunes of the *qawm* into English hands.

Our Hindu brothers in this country are leaving us and joining with the Bengalis. So we should join the people [*qawm*] with whom *we* can associate. [...] If our Hindu brothers in this country, and the Bengalis of Bengal, and the Brahmins of Bombay, and the Hindu Madrasis of Madras want to separate from us, let them separate and don't worry about it. We can befriend the English socially. We can eat with them. Whatever expectations of improvement we have, we have from the English. The Bengalis can do nothing good for our *qawm*. (Ahmad Khan 1973 Vol. 1: 48-50)

His belligerent rhetoric apart, there is no doubt that Sir Sayyid was gen-

uinely concerned by nationalism's rejection of political pluralism and its
co-optation or attempted destruction of local polities and cultures into an
abstract Indian identity. And this destruction was exacerbated for the
gentry in that they were constitutionally incapable of responding to it with
an all-Indian Muslim nationalism of their own. It was this parochialism
that resulted both in their loyalty to the Raj as a form of pluralism and in
a rather distasteful form of elitist chauvinism. So at the 1887 session of
the Muhammadan Educational Conference in Lucknow, Sir Sayyid had
to respond to the congress challenge with the following rhetoric:

> Would the squires [*rais*] of our country be pleased to have a lowly
> nation or man – even if he were a B.A. or M.A. and capable to boot –
> rule over them? Have command over their property, estate, and
> honour? Never, not even one would like it. (Ahmad Khan 1973 Vol.
> 2: 6)

And yet this parochial form of loyalty was not lacking in intelligence. So
while Sir Sayyid insisted that the colonial government was responsible and
fair (Ahmad Khan 1973 Vol. 2: 7-8), he refused to consider these qualities
as subject rights in the manner of the congress because he saw the colonial
state as fundamentally foreign and therefore did not naturalise it.

> Has there been a world in which a foreign people [*ghayr qawm*] has
> conquered and ruled other foreign peoples who then claimed rep-
> resentative government as their right? (Ahmad Khan 1973 Vol. 1: 39)

If Sir Sayyid's loyalty was intellectually more independent than congress
nationalism, it was perhaps also more traditional in its refusal to legitimise
the colonial state by agitating for rights. For Aligarhists, the Raj, though
good, was based on nothing but force. Nonetheless, Sir Sayyid softens the
humiliation of this strength by invoking the religious relationship between
Muslims and Christians in the following passage:

> The English have conquered India and us with it, and in the same
> way that we compelled or enslaved this country, so, too, they have
> compelled or enslaved us. Then what kind of principle of rule is it
> that they should ask us if we want to fight in Burma or not? Has
> such a thing ever happened, and do the principles of governance
> agree with it? At the time when there was Muslim rule, and when
> there was military activity in any region of India, was it according to
> the principles of governance that the subjects of the Emperor of
> India should be asked whether or not we should conquer this region?
> Who could be asked? Those whom they had conquered and enslaved
> and whose brothers they were now planning to enslave? Our com-

munity/nation too has ruled, and it rules even now. Are there any
such principles that allow rule over a foreign people in this way?
(Ahmad Khan 1973 Vol. 1: 40-1)

As we have seen, Sir Sayyid linked Indian nationalism to Hindu
chauvinism. Indeed, for the gentry of the nineteenth century, religious
conflict seems to have meant nothing more than a hostility in which their
position as contestants or arbitrators was increasingly reduced because
the parochial *sharif qawm* was unable to deal with more widely organised
Hindu elites, not to mention the alien politics of the Muslim masses. In
other words, it was Indian nationalism, with its creation of countrywide
identities, that made these Muslims into a minority, imposing upon them
all the disempowerment of such a status.

   Given this, the Aligarhists could offer no solutions to the problem of
Hindu-Muslim conflict and indeed could not even conceive of a realistic
Hindu-Muslim relationship. Sir Sayyid used to call for religious harmony
by comparing India to a bride, each of whose eyes were the Hindus and
the Muslims; he would then point out that enmity between these two orbs
would be a great pity since it would make the bride cross-eyed. This analogy
is interesting in the way it transforms traditional images of the body politic.
Previously the political body was imagined as a man put together by the
interaction of groups defined as limbs and organs. *Siyasat* was the external
management of this body by the king. As the *Ain-e Akbari* ('*Akbarian
Edicts*') says of the Mughal emperor Akbar.

> He is continually attentive to the health of the body politic, and ap-
> plies remedies to the several diseases thereof. And in the same
> manner that the equilibrium of the animal constitution depends
> upon an equal mixture of the elements, so also does the political
> constitution become well tempered by a proper division of ranks;
> and by means of the warmth of the ray of unanimity and concord,
> a multitude of people become fused into one body. (Allami 1965: 4)

Sir Sayyid's body politic, however, was not a metaphor for hierarchical
activity, but for India as a woman possessed by the British. It is true, of
course, that in the *Ain-e Akbari* the world is also referred to as the emper-
or's bride, but then it is not seen as a political body so much as a symbol
of metaphysical union. In other words, Hindus and Muslims are not or-
gans that constitute the body politic by their interaction, but unrelated
constituents of a body that exists apart from them. This body was nothing
but an inert space or mass, providing a ground for the colonial state as a
third party and offering it a framework for violence and politics. Hindus
and Muslims can now only be related to each other through this body, one
that is not simply managed by *siyasat* but rather compelled to act by English

law as a kind of husbanding. So Sir Sayyid's India was nothing more than a colonised, feminised body unable to act on its own, a body whose organs were incapable of any real relationship apart from violence or forbearance, which was the most that could be hoped for.

6.4   A special relationship

Now the power of European colonialism, whether political or intellectual, resulted in the Aligarhist construction of a special relationship between Christians and Muslims, one from which Hindus were excluded. This relationship was based upon a shared religious and political history over a long period of time and across several continents. We can see how this relationship worked by looking at the controversy surrounding a book, published in 1871, by the Bengal civilian W. W. Hunter. This work, which became a standard textbook for the colonial service, is entitled *The Indian Mussulmans: Are They Bound in Conscience to Rebel against the Queen?* And the question that formed the subtitle, one it attempted to answer, emanated from the Viceroy Lord Mayo himself. Hunter's book spoke with the voice of authority, which might explain why there is little originality in it. In fact, the book simply assembles a few well-worn themes about the politically rebellious nature of Islam, the inherent tendency of Muslims towards fanaticism and the threat of pan-Islamism into an argument that is itself rather problematic. Hunter concludes that while the colonial state is not *dar ul-Islam*, the 'abode of Islam', Muslim rebels are still not obliged to rise against it. *The Indian Mussulmans* is thus a work that is important not by reason of its conclusions, which never gained wide acceptance – given the fact that the colonial state took to calling itself *dar ul-Islam* in its claim to constitute the world's largest 'Mohammedan Empire' – but because it makes hegemonic a certain way of considering the Indian Muslim. Does he feel obliged to dissent in a Christian sense? Is his conquering spirit comparable to the civilising mission of colonialism?

Hunter begins by claiming that he is concerned exclusively with Muslim revivalism in Bengal, primarily the Faraizi Movement (Hunter 1969: 1). Over the course of the book, however, he goes on to consider Sayyid Ahmad Barelvi's mujahidin on the North-West Frontier and indeed Muslim agitation throughout India, including even the Wahhabis of Arabia. This mysterious expansion of his subject tells us two things. One, that Muslims are the same everywhere because it is Islam as some kind of trans-historical essence that stirs them. And two, that it is in the nature of Islam to spread.

It is not the Traitors themselves whom we have to fear, but the seditious masses in the heart of our Empire, and the superstitious

> tribes on our Frontier, both of whom the Fanatics have again and
> again combined in a Religious War against us. During nine centuries
> the Indian people have been accustomed to look for invasion from
> the north; and no one can predict the proportions to which this
> Rebel Camp, backed by the Musalman hordes from the westward,
> might attain, under a leader who knew how to weld the nations of
> Asia in a Crescentade. (Hunter 1969: 34-35)

This passage performs a series of displacements. First, by emphasising a
specifically Muslim menace, which is to say the threat of a minority
concentrated on the borders of the Raj, Hunter is able to ignore or repress
the possible danger of a Hindu majority in the heartland. The artificiality
of this threat is made clear in Hunter's examples of Muslim dissent, which
are all insignificant, for no Islamic movement posed a serious threat to
the empire until well into the twentieth century. And in fact, the slightly
ludicrous character of Britain's Muslim bogey was apparent to many of
Hunter's contemporaries. So the Islamic scholar Wilfred Scawen Blunt
remarks, in reference to the gentry.

> I told them, if the Mohammedans only knew their power they would
> not be neglected and ill-treated by the Government, as they now
> were. In England we were perpetually scared at the idea of a Mo-
> hammedan rising in India, and any word uttered by the Mo-
> hammedans was paid more attention then that of twenty Hindus.
> (Blunt 1909: 103-104)

Second, considering only the threat of outside agitators and their foreign
supporters permits Hunter to suppress the possibility of a rebellion inside
the minority Muslim community. His denial of real responsibility to In-
dian Muslims makes possible and justifies a strategy of policing borders
to stop the spread of foreign subversion. Indeed, a belief in the effective-
ness of this form of surveillance, which vastly reduces the number of
people who have to be dealt with, is important enough to make Hunter
stress the foreign agitator aspect of Muslim revivalism repeatedly, as in
the following:

> The obligation of the Indian Musalmans to rebel or not rebel, hung
> for some months on the deliberations of three priests in the Holy
> City of Arabia. (Hunter 1969: 3)

Third, Hunter's preoccupation with the bogey of pan-Islamism allows him
to repress any discussion of historical Indian revolts, such as the Mutiny
of 1857, which might indicate a rational dissatisfaction with colonialism.
And finally, Hunter's use of the term 'crescentade', which evokes crusade,

takes the issue out of the historical present altogether. His consideration of Muslim revivalism in terms of an exclusive Christian-Muslim relationship does more than simply exclude a third, dangerous element, the Hindu. It also allows the Christian and the Muslim to trade places, for Hunter has a Muslim revivalist take the Christian's place both as Crusader and as Puritan, while transforming the Anglican coloniser into both a Muslim and a Catholic. Thus Hunter's work is sprinkled with words of praise and admiration for these Islamic puritans, whom he compares to the reformers of the Catholic Church (Hunter 1969: 51, 67, 100). This sympathy for the simple dissenters is condescending and reveals a dislike of gentle-born and educated Muslims, whom Hunter compares to their Anglican colonisers, comfortable upholders of the established church who are opposed by Anabaptists (Hunter 1969: 101-102). But this valorisation of the Islamic puritan is not determined by a corresponding fear of members of the established church. Rather, Hunter invests the rebels with nostalgia for his own dissenting ancestors. Speaking of these Church of England Muslims, he writes:

> But important as these [...] sections of the Muhammadans may be from a political point of view, it has always seemed to me an inexpressibly painful incident of our position in India that the best men are not on our side. (Hunter 1969: 136)

Overcoming his regret, Hunter goes on to advocate destroying Muslim Puritanism through education.

> We should thus at length have the Muhammadan youth educated upon our own plan. Without interfering in any way with their religion, and in the very process of enabling them to learn their religious duties, we should render that religion perhaps less sincere, but certainly less fanatical. The rising generation of Muhammadans would tread the steps which have conducted the Hindus, not long ago the most bigoted nation on earth, into their present state of easy tolerance. Such a tolerance implies a less earnest belief than their fathers had; but it has freed them, as it would liberate the Musalmans, from the cruelties which they inflicted, the crimes which they perpetrated, and the miseries which they endured, in the name of a mistaken religion. I do not permit myself here to touch upon the means by which, through a state of indifference, the Hindus and Musalmans alike may yet reach a higher level of belief. But I firmly believe that that day will come, and that our system of education, which has hitherto produced only negative virtues, is the first stage towards it. Hitherto the English in India have been but poor iconoclasts after all. (Hunter 1969: 205)

Hunter recovers his own ancestral Puritanism in this remarkable passage by an act of iconoclasm that makes the Muslim dissenters just like the backsliding English. And in so doing, he reveals the fundamentally therapeutic character of his book, which raises false or insignificant fears only to allay them, while forgetting real threats in the process.

The English version of their special relationship with India's Muslims was based upon a series of displacements and repressions resulting from the uncertainties of colonial rule. The Muslim or Aligarhist version of this relationship was, we may expect, rather different. In his review of Hunter's *Indian Mussulmans*, Sir Sayyid thus begins by warning the English to censor their views on Muslims, as 'natives anxiously con all articles bearing upon the feelings with which their rulers regard them' (Ahmad Khan 1974: 5-6). Now, on the one hand, this interesting advocacy of secrecy no doubt reflects on Sir Sayyid's efforts to represent the English in a good light, efforts that were defeated by books such as Hunter's. On the other hand, Sir Sayyid's call for censorship simply allows him to put the Aligarhists forward as brokers between English and Muslims by playing on the former's fear of Islamic Puritanism.

> The evils that now exist, however, owe their origin greatly to the want of union and sympathy between the rulers and the ruled, and ideas like Dr. Hunter's only tend to widen the gap. I admit that owing to the difference in the mode of life, there is but a limited number of native gentlemen with whom European gentlemen can have cordial intercourse; but this number will, I trust, increase largely every year. (Ahmad Khan 1974: 50)

In order to achieve this brokering ambition, Sir Sayyid insistently raises the possibility of a Muslim threat in a work, and indeed a career, that was ostensibly devoted to proving the loyalty of India's Muslims. And he uses this threat quite consciously to obtain the maximum advantage, as in the following passage:

> I cannot, however, predict what the actual conduct of the Musalmans would be in the event of an invasion of India by a Mahomedan or any other power. He would be a bold man indeed who would answer for more than his intimate friends and relations, perhaps not even for them. The civil wars in England saw fathers fighting against sons, and brothers against brothers; and no one can tell what the conduct of the whole community would be in any great political convulsion. I have no doubt, but that the Musalmans would do what their political status – favourable or the contrary – would prompt them to do. (Ahmad Khan 1974: 45)

This barely veiled threat raises two more themes in the English fear of Islam: pan-Islamism and Protestant iconoclasm, the latter implied in Sir Sayyid's reference to the English Civil War. Again, Sir Sayyid plays on these fears while simultaneously using them to tie the English and Muslims together historically in a special relationship. So he says about Hunter's 'Mahomedan Puritans': 'In my opinion, what the Protestant is to the Roman Catholic, so is the Wahabi to the other Mahomedan creeds' (Ahmad Khan 1974: 7).

It is important to recognise that this manipulation of colonial fears, while it was certainly tactical, was also internalised by the gentry into a kind of machismo that was expressed more often than not in some self-praising bluster at meetings of the Muhammadan Educational Conference. Similarly, the common, exclusive history that the gentry supposedly shared with their Christian masters ended up becoming the site for an Aligarhist apologetics driven by shame and humiliation, one where Europeans were said to have developed their civilisation on the intellectual foundations provided by medieval Islam – a fact that made Europeanisation merely into a reclamation of this tradition. Such a shame did not interfere with the political advantages of calling for openness to the English based on the fact that they were *ahl al-kitab*, 'People of the Book', but it only made a genuine ecumenism impossible. As Akbar Illahabadi puts it:

> *Tujhe unse hay sar-e dosti, teri arzu bhi ajib hay*
> *Woh hay takht par, tu hay khak par, woh amir hain, tu gharib hay*
> (Illahabadi 1990: 59)
> ('You want to befriend him, what a strange desire!
> He's on the throne, you're in the dust, he's exalted, you're a pauper')

6.5   The return of the political

The following passage from India's *The Tribune* of 26 November 1901 signals the increasingly evident failure of a parochial Muslim community in the new, all-India politics of the Raj.

> It is certain that there is general dissatisfaction in the community with the present condition of affairs. In some parts of India a fairly large section of Mahommedans has been hitherto content to receive their opinions on matters political ready made from Aligarh. But of late there has been a suspicion that in the things and men of Aligarh all that glitters is not gold, and consequently there has been much searching of hearts, which has naturally fluttered the dovecots at Aligarh. A Mahommedan friend of ours very felicitously but correct-

> ly characterised the existing situation of affairs as 'the Revolt against Aligarh'. There can be no doubt that Aligarh is no longer to dominate the political opinions of Mahommedans in the different parts of the country. For the Mahommedan community this freedom from a yoke that had become very heavy and almost unbearable will itself be no small gain. (Muhammad 1980: 29)

Unlike the Indian National Congress, Aligarhists had never attempted to establish countrywide networks. Sir Sayyid had reserved the community's institutions (primarily the Muhammadan Educational Conference and the Muhammadan Anglo-Oriental College) for the North Indian gentry (Ali Khan 1913 Vol. 1: 491). This was true to such an extent that when his lieutenant, Nawab Muhsin ul-Mulk, had wanted simply to establish contacts with the new Muslim politics developing in Bombay, Sir Sayyid refused to do so (Ali Khan 1913 Vol. 1: 484-485). Faced, then, with an India-wide congress and the mushrooming of independent Muslim organisations among non-*sharif* elites in other parts of the country, the Aligarhist community suddenly seemed unrepresentative of Muslim interests, not only from the point of view of the congress, non-Aligarhist Muslims or the colonial government, but also of the young men who were the first products of Aligarh, men for whom the monopolisation of leadership by a clique of old gentlemen posed an obstacle to their own progress. In fact, the old idea of natural leadership, which had nothing to do with being validated by a constituency, died with Sir Sayyid, something that was duly noted by one of his successors, Nawab Viqar ul-Mulk, in a letter to the *Pioneer* on 16 August 1903 (Muhammad 1980: 40).

Given this, members of Aligarh's old and young generations convened a meeting in Lucknow on 21 October 1901, at which they determined to found the All-India Mahommedan Political Association (Muhammad 1980: 40). Reporting on this gathering, the *Aligarh Institute Gazette* made its fundamental importance clear. On the one hand, it notes the novel composition of the meeting, which comprised ten barristers, four young aristocrats, three pleaders and only two 'influential gentlemen representing the learning and enlightenment of an older generation', namely Viqar ul-Mulk and Masih uz-Zaman, a former tutor to the Nizam of Hyderabad (Muhammad 1980: 42-43). On the other hand, the gazette points out that all these people were from the north and warns that representation requires much more than this.

> Is it feasible or warrantable to make it an All India organisation? If so, what evidence is there to show that the two presidencies – Madras and Bombay – Sindh, Central Provinces, and Berar are even remote-ly and partially in touch with the organisation? [...] The principle of representation being in the ascendant, it is advisable that Ma-

hommedans should learn to act on it. It should, however, be remembered that there are certain tests which are applicable and which, as a matter of fact, are applied by the press and critics generally to such institutions as claim a representative character. (Muhammad 1980: 44)

Yet representation, as Sir Sayyid well knew, had its risks, chief among them being the loss of *sharif* leadership to other sorts of elites. Indeed, it was probably this desire to preserve a North Indian *qawm* that informed the reformists' ambivalent relations with other Muslim organisations, which literally invaded Aligarh at the end of the nineteenth century. The Muhammadan Educational Conference was in 1900 thus invited to Calcutta, in 1901 to Madras and to Bombay in 1903. The gentry did not quite know what to make of this attention. In a speech at Madras, for instance, Muhsin ul-Mulk confessed that he had never thought that Muslims of different regions could come together (Ali Khan 1913 Vol. 1: 418). And in 1903, at Delhi, he admitted that he had never even thought about Sindh until Muslims from that province asked to be included in the Conference (Ali Khan 1913 Vol. 1: 484). The Aligarhists were certainly pleased with this attention, but they still did not consider these other Muslims anything more than sympathetic acquaintances. At most they could provide examples for the gentry. Thus Muhsin ul-Mulk addresses the merchant-princes of Bombay with these words:

> O people of Bombay, having met you and seen your condition and wealth, they [the gentry] will reflect that although you do not rule, by God's grace you are the masters of millions of rupees [...] and when they reflect upon the reasons for your wealth, they will leave off complaining about fortune and crying over fate. Some spirit will be born in them, and they will make manly efforts toward industry and commerce. (Ali Khan 1913 Vol. 1: 489)

But it was at this meeting in Bombay that Muslim outsiders finally infiltrated Aligarh's bastion. In response to a resolution that demanded changing the conference's rules to accommodate Muslims from all parts of India, Muhsin ul-Mulk wonderingly remarked that whereas the Muslims of Calcutta and Madras had thought of the Muhammadan Educational Conference as an organ of the 'Aligarh Party', and had not seen it fit to demand rights in its constitution, Bombay had broken its bounds for the first time (Ali Khan 1913 Vol. 1: 492). And this as yet ill-defined rupture, which was probably permitted at all because of Bombay's inclination to pour money into the coffers of Aligarh, was to constitute a site of struggle for years to come.

Muhsin ul-Mulk's speech on commerce and industry quoted above

illustrates that representation was not the only factor bringing the old *qawm* to crisis, for the provincial constituency Aligarh had created seemed to be unable even to sustain itself financially. For instance, the Muhammadan Anglo-Oriental College, Sir Sayyid's flagship project, moved from one economic crisis to another. Thus, when Sir Sayyid died in 1899, the institution had a shortfall of 150,000 rupees, and its architects, masons, etc., had suspended work because they had not been paid (Ali Khan 1913 Vol. 1: 405). Such a situation was possible both because the system of donations upon which the college relied was slow, inefficient and costly and because the gentry did not or could not generate the kind of money Aligarh required. So of the 9,000 rupees pledged for scholarships at the time of Sir Sayyid's death, only 3,500 had been received by 1900 (Ali Khan 1913 Vol. 1: 405). Indeed, conditions were serious enough for Muhsin ul-Mulk to make these sad revelations for the first time at the 1900 session of the Muhammadan Educational Conference in Rampur. Sir Sayyid, he said, had not managed to raise more than 700,000 rupees in 30 years of vigorous campaigning (Ali Khan 1913 Vol. 1: 406), while the scheme for the college's development into a university required a million rupees, of which only 115,000 had been collected in two and a half years (Ali Khan 1913 Vol. 1: 404). In other words, the community did not even have the resources to meet the costs of its own growth.

These troubles of representation and finance approached crisis in 1906, when the proposed introduction of a limited franchise for legislative bodies, the Morley-Minto Reforms, provoked a debate on the community's competitive abilities. Something had to be done, a Muslim political party had to be formed, if young Aligarhists were not to abandon the guidance of their elders for political opportunities elsewhere. Thus we have Muhsin ul-Mulk anxiously writing to principal of Aligarh's college W. A. J. Archbold.

> You are aware that the Mahommedans already feel a little disappointed, and young educated Mahommedans seem to have a sympathy for the 'Congress'. [...] Although there is little reason to believe that any Mahommedans, except the young educated ones will join that body, there is still a general complaint on their part that we (Aligarh people) take no part in politics, and do not safeguard the political rights of Mahommedans, they say that we do not suggest any plans for preserving their rights, and particularly do nothing and care nothing for the Mahommedans beyond asking for funds to help the college. [...] I feel it is a very important matter, and if we remain silent, I am afraid, people will leave us to go their own way and act up to their own personal opinions. (Muhammad 1980: 175-176)

No doubt playing to British fears of an uncontrolled Muslim intelligentsia, the community's leaders petitioned their rulers for the right to become political, thus chipping away at the foundation of Sir Sayyid's policy. They were granted this right in a much-publicised staging of their grievances before the Viceroy, Lord Minto, on 1 October 1906. This meeting, which resulted in the policy of separate electorates, effectively counterposed the Muslim community to congress' representative claims. In order to do this, the Muslim leadership had to prove its own representative character to the world in a new way. Indeed, this concern with representation assumed the status of a mania, as is indicated by the opening words of the Muslim deputation's address.

> Availing ourselves of the permission awarded to us, we, the under-signed nobles, jagirdars, taluqdars, lawyers, zemindars, merchants and others representing a large body of the Mahommedan subjects of His Majesty the King-Emperor in different parts of India, beg most respectfully to approach your Excellency with the following address for your favourable consideration. (Muhammad 1980: 192)

The Viceroy's response was just as emphatic on the subject of represen-tation.

> I welcome the representative character of your deputation as express-ing the views and aspirations of the enlightened Muslim communi-ty in India. I feel that all you have said emanates from a representa-tive body basing its opinions on a matured consideration of the ex-isting political conditions of India, totally apart from the small personal or political sympathies and antipathies of scattered locali-ties [...]. (Muhammad 1980: 198-199)

These quotations make two things clear. First, the Muslim representatives were still supposedly natural leaders in a certain sense, men of enlighten-ment who were representative only in the variety of their vocations and places of origin. Second, they were dominated by aristocrats, merchants and lawyers: a new Muslim elite, and for a large part a non-Aligarhist one. So the Muslim delegation was led by the Aga Khan, a capitalist prince and Shia leader from Bombay who raised the funds needed to make Aligarh's college into a university. It was these men who broke Aligarh's parochial-ism and went on to lead a new kind of community under the auspices of the Muslim League.

6.6   Conclusion

We know that further adventures awaited the *qawm* as a political entity, from its transformation into a nation at the end of the 1930s to its achievement of a homeland at the end of the 1940s. But though it is difficult to overestimate the transformative importance of these historical events, we should recognise that they occurred suddenly and at least initially without the backing of any popular demand. Thus Mohammad Ali Jinnah, the Bombay lawyer of Shia background who was president of the Muslim League during this period, switched from describing Muslims as a minority to calling them a nation practically overnight, in response to congress victories in the 1937 elections. Similarly, his demand for a separate Muslim state was made in the absence of any serious debate about or popular movement for Pakistan, all of which means that the new politics inaugurated by the Muslim League had to be worked out after the partition of India, and remains an incomplete project to this day.

So even when Pakistan was declared the world's first Islamic Republic in 1956, the Muslim community continued to be invoked on all sides as a collectivity that retained its nineteenth-century character, neither a mere nation in Pakistan nor simply a minority in India, but something more ambiguous. For though it had become a dead letter by the early twentieth century, the *qawm* that was created in the Aligarh Movement has continued to provide the template and model for all broad-based conceptions of the Muslim community in contemporary South Asia. And this community remains true to its colonial roots even today, as a non-political entity that is able to take on any number of political forms without disappearing into them. Indeed it can even be argued that the political contestation and fragmentation of Islam in all three successor states of the Raj is due at least in part to the fact that the Muslim community remains in many respects a colonial entity whose politicisation was left incomplete by the Muslim League and has today been taken up by various pietistic, fundamentalist and militant groups. Both *qawm* and community, in other words, remain by their very usage caught between minority and nation, politics and the non-political.

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Part 2

Continuities and ruptures in the governance
of Islam in post-colonial situations

Chapter 7
Colonial traces? Islamic dress, gender and the public presence of Islam[1]

Annelies Moors

Controversies about Islamic dress have become commonplace in Europe since the late 1980s, with state regulations targeting both the Islamic headscarf and, later, the face veil. Such present-day attempts to regulate Islamic head coverings resonate with how Muslim women's dress has been the focus of state intervention in colonial times. In both cases, they are considered a sign, symbol or instrument of Muslim women's gender oppression and are associated with undesirable forms of Islam.

Above, I purposely employ the word 'resonates', an evocative rather than analytical term, because references to 'the colonial' are often made in this modality. In this contribution, I intend to unpack the multiple ways in which references to 'the colonial' may work and analyse at which moments they are helpful and when they go awry. As it turns out, tracing the genealogy of state regulation of Islamic head coverings takes us beyond colonial administrators' discourse on women's dress to the ways in which empires and emerging nation-states regulated men's dress. The first part of this chapter traces the shift in state governance from men's dress to women's dress, looking beyond direct colonial links and conditions in order to understand how such debates have emerged and were transformed in the context of colonial settings. In the second part, I briefly address contemporary discourses in Europe that focus on women's Islamic head coverings, concluding with an attempt to trace the genealogies of such contemporary concerns.

7.1 Men's bodies: Representing the state

When tracing the genealogies of present-day debates about Islamic head coverings in Europe, we need to move beyond colonial governance in a narrow sense. In the course of the nineteenth century, the modernising empires in the Middle East started to propagate dress regulations as a means to fashion new citizen-subjects, starting with male dress. It is true that sumptuary laws have a longer history in the Ottoman Empire. Often focusing on the shapes and forms of the male turban, they served to create and maintain differences among the population, be it in rank, occupational position or religious affiliation (Norton 1997: 149-150). Nonetheless,

the dress reforms that Sultan Mahmud II imposed on his subjects in the early nineteenth century were very different. His main aim was to create a modern homogeneous nation by doing away with visible distinctions between various categories of the population, including religious ones (Quataert 1997: 403, 412). Starting in 1826 with the prescription of new European-style uniforms for the army, he first introduced the fez to replace the turban. While some resisted the demise of the turban on religious grounds, such protests were rapidly overcome when the chief mufti and grand vizier found the fez acceptable. This paved the way for the 1829 clothing reform laws that ordered the male civilian population to replace their robes and turbans with trousers, a frock coat, the fez and black boots. In this way, a Western aesthetic was imposed on urban men that high-lighted the contours of the body, which was very different from the wide gowns Ottoman men used to wear. Such new styles of dress – new not simply by change in colour or material used, but in the shape of dress itself – were also to affect the wearers' bodily movements and lifestyle (Jirousek 2000: 234; Norton 1997: 153-154).[2]

Roughly one century later, when the establishment of the Turkish Republic in 1923 entailed a move from a multiethnic Islamic Empire to a secularist Turkish nation-state, the fez itself became the target of state regulations. Mustapha Kemal Ataturk, the hero of the war of independence, intended to combine Western civilisation with a Turkish national culture that was grounded in the nationalism of the growing bureaucratic middle class. He attempted not only to undermine the power of the religious establishment by making Islamic institutions subservient to the state or by abolishing them outright, but also set out to fundamentally transform the lifestyle of the population. In 1925, he banned the fez and started to promote the wearing of hats. Whereas almost a century earlier, the fez had replaced the turban to homogenise the population and to do away with visible religious differences, Ataturk considered the fez not only a symbol of Islamic allegiance (despite the fact that non-Muslims wore it as well), but also the emblem of ignorance, negligence and fanaticism. In his eyes, wearing a hat – 'the headgear of the whole civilised world' – would demonstrate that the Turkish nation did not diverge from civilised life (Norton 1997: 159-162).

Similarly, in nineteenth-century Qajar Iran, modernisation programmes were accompanied by dress regulations, but they remained more limited than those of the Ottoman Empire. After Reza Shah came to power, however, he modelled his reform projects of the 1920s and 1930s on those of Kemalist Turkey. As in Turkey, modernisation was accompanied by state-imposed dress regulations that at first targeted men. According to the Uniform Dress Law issued in 1928, a man's wardrobe should consist of 'a Western coat, a jacket, trousers with a leather belt and leather shoes in European styling' with a 'Pahlavi hat' for head-gear, adopted from

a French form (Baker 1997: 181). The Shah's main intention was to en-hance national morale. Wearing European dress would erase differences among the population, turn the different communities into a single nation and show that Iranians were not different from or inferior to their Euro-pean counterparts (Baker 1997: 180). Despite protests from religious authorities, the Qashaq'i and the Kurdish tribes, and the population at large, which was fearful of economic hardship, Reza Shah continued on the path of imposed modernisation. In response to protests that erupted after he prescribed the brimmed hat (fedora) during his visit to Turkey in 1938, Reza Shah argued that the new hat had nothing to do with religion but with nationality: 'We do not want others to think they are superior to us because of a minor difference in head covering' (Wilber 1975 in Baker 1997: 183).

As the arguments for developing dress regulations indicate, these modernising rulers worked with a particular theory about the relations between sartorial practices, the individual body and the body politic. Items of dress were not used to express a particular pre-existing interior state of being, but were employed to homogenise the nation and to actively pro-duce a sense of national belonging. There was a strong belief in the transformative powers of dress; wearing particular styles of dress would produce particular collective identities and notions of the self. Such dress regulations then employed an aesthetic that was both experiential, in the sense of referring to embodied feelings, and representational, foreground-ing the visual perception by others.[3] It was through dressing in a Western style – the aesthetic of the more powerful – that the countries of the East would be able to stand on equal footing with the West. Under Ataturk and Reza Shah, these ideas gained further currency; a major impetus for re-placing the fez with the hat in Turkey and for the Uniform Dress Code in Iran was to be part of the civilised world. In other words, state governance considered dress both an instrument to homogenise and civilise the nation and its people and a means of presenting and representing the nation as such to the world at large.

7.2   Regulating women's dress: Embodying the nation

If the turn towards a Western aesthetic entailed a major rupture in dressing regulations for urban men in the modernising Ottoman Empire of the nineteenth century, state regulations concerning women's dress initially continued to underline the need for covered dress, prescribing the length of skirts and the thickness of the veil. While men were to rep-resent the state to the outside world, women were discouraged from taking up a Western aesthetic.[4] Such a perspective was, however, soon contested.

Over the course of the nineteenth century, during the Tanzimat Re-

forms (1839-1876) and especially during the Second Constitution (1908-1919), women's dressing styles became central to debates in the Ottoman Empire. As Göle (1996: 38ff) has argued, roughly three positions can be discerned. The radical Westernists who argued for the universality of Western civilisation saw the practice of veiling as the cause of the backwardness of Ottoman Turks. They considered abandoning the veil as a prerequisite for the emancipation of women and hence for social progress and a civilised way of life. The Islamists, in contrast, strongly condemned such imitations of Western manners. Considering the modesty of women as crucial for the moral integrity of the empire, with veiling as one of the most important Islamic rules to be maintained, they objected to women's increased public visibility and their new styles of dress. The Turkist movement emphasised the importance of a Turkish rather than Islamic identity. Its adherents underlined the negative impact of Arab and Iranian culture on Islam, while claiming that pre-Islamic Turkish traditions had given women an equal status to men and did not require them to be veiled. Critical of the cosmopolitanism of upper-class Ottoman women who only wanted freedom for pleasure and to indulge in fashion, rather than to work with men for the benefit of the nation, their perspective was strongly nationalist and populist (Göle 1996: 54).

While after Turkey's independence Ataturk had taken decisive measures with respect to male head-gear, he did not ban the veil outright. Still, state policies and regulations strongly discouraged women from wearing Islamic covered dress and, in specific settings, such as state institutions, women were forbidden to wear a veil (Göle 1996: 60). The arguments used were very similar to those legitimating the banning of the fez for men: non-Western dress was considered uncivilised and women wearing the veil would expose the nation to ridicule. This shift from 'covering women's bodies' to 'revealing them in public' needs to be seen within the framework of the new state project that aimed to do away with gender segregation, pushing men and women to socialise together, and to make women's bodies visible in public (Göle 1996: 73). In this way, 'the new woman of the Kemalist era became an explicit symbol of the break with the past' (Kandiyoti 1991: 41).

In Iran, Reza Shah intended to go further with respect to regulating women's dress, but was less successful than Ataturk. When rumours started to circulate about the banning of the chador in 1934, huge demonstrations erupted in Mashad, to which the regime responded with great force, resulting in the death of four to five hundred people. Still, Reza Shah's dress reform programme was extended to include unveiling. Female teachers and students at medical and law schools were an early target for these policies; first they were allowed to attend classes unveiled, and then were ordered to remove their veils. Such directives rapidly included other areas of life: no diplomas were awarded to veiled women and

no identity cards were issued to them, while, simultaneously, photographs of women athletes and girl scouts were used in anti-veiling campaigns (Baker 1997: 185). After the Queen and two princesses appeared unveiled in public in 1936, the banning of the chador and *pecheh* (face veil) was officially announced; women were no longer allowed to appear on the streets wearing the chador or any other kind of head covering except a European hat (Hoodfar 1993: 10). In Iran, these dress regulations were also part and parcel of a reform programme that aimed at desegregating and de-Islamising the public sphere. Circulars were published about the new social etiquette for men and women, explaining when to wear and when to take off one's hat and exhorting women to put their handkerchiefs and cigarette cases in their handbags rather than in their bosom or up their sleeves (Baker 1997: 186). Only after the forced abdication of Reza Shah in 1941 was the ban on veiling lifted.

7.3 Contextualising women's dress regulations in Turkey and Iran

To better understand the meaning of these forms of governance, we need to briefly consider how liberal political theory has linked the emergence of the modern nation-state to new notions of sovereignty and citizenship.[5] Whereas the lives of pre-modern subjects were thought to be determined by ascribed statuses of family, tribe or religion, the modern secular citizen is conceptualised as a person entering into voluntary, contractual relations with others (Kandiyoti 1991: 4). Nevertheless, as feminist critics have pointed out, the relations between emerging nation-states and their citizens were strongly gendered; as women were dependent on men, only men – and not women – were supposedly capable to enter into such contracts.[6]

Dress regulations in emerging nation-states were part and parcel of a wider reform programme that also included greater access to education for women, attempts to transform gender and family relations and moves towards legal reform, the desegregation and de-Islamisation of the public sphere, and the demise of alternative homosocial semi-public spheres for women. As Kandiyoti (1998) pointed out, the local modernity discourse did not only develop in relation to the West, but also in response to local configurations of power, with reformist elites developing notions of the modern family that were different from those held by the old elites or the lower classes. In Ottoman Turkey, the link between the new family and the new nation was a central issue in public debate. The Young Turks, the protagonists of Turkish nationalism in the period 1908-1918, argued for the need for a new or national family, a monogamous, nuclear and companionate family that was to replace the older patriarchal family, based on

polygyny and arranged marriages of young girls to older men. This in-
cluded a new discourse on masculinity and femininity, suitable to a new
domestic intimacy involving companionship between the spouses and a
child-centeredness (Kandiyoti 1998: 279-82). Legal reform tallied with
such concerns. The Ottoman Empire saw the first codification of Islamic
family law in 1917 (the Ottoman Law of Family Rights). After the estab-
lishment of the Turkish Republic and Ataturk's radical shift in policy to-
wards the religious establishment, this law was replaced in 1926 by a
secular civil code based on that of Switzerland.

Whereas such projects of 'remaking the family' present themselves
often within the liberal discourse of greater individual autonomy and
freedom, some scholars have highlighted their disciplinary effects. Na-
jmabadi (1993) takes issue with the notion that modernity transformed
early twentieth-century women in Tehran from being absent from the
public sphere into active participants in the public sphere. Her analysis
turns this transformation from absence to presence into something far
more complicated. Rather than conceptualising women entering the
public sphere as free and autonomous agents, she points out how
modernity simultaneously entailed a particular style of disciplining
women's words, bodies and minds. In order to be deemed fit to enter the
modern public sphere, pre-modern women – in hindsight seen as igno-
rant, uncivilised and restricted to an all-female world – had to be turned
into women who were well-behaved, polite and quiet, who were good
mothers, suitable partners for their husbands and who were committed
supporters of the nation. Only after being so transformed could they claim
a space in the public sphere without threatening the social order.[7] Modern
schools, for instance, installed particular forms of discipline and were
instrumental in the development of new moral behaviours. They produced
women who had learned the new, modern ways of household, child and
husband management, and who would be able to participate in a male
public sphere without being too much of a disturbing factor. In other
words, the physical movement of unveiled women into the public sphere
was conditioned upon women developing a particular form of desexu-
alised body language, one that required new forms of self-discipline.

Moreover, women's entry into the modern public sphere simultane-
ously entailed the devaluation and demise of a homosocial women's world
(Najmabadi 1993; see also Abu-Lughod 1998). In many settings with a
tradition of gender segregation, women have been and, to some extent,
still are engaged in well-organised and more or less formalised all-female
visiting circles that work as forums for discussions of matters of general
interest and the common good, varying from marital politics to national
politics.[8] Such women-only settings may be considered subaltern publics
that, depending on the content and the style of their interactions and their
positioning in relation to the general public, function as sub-publics or

counter-publics. Yet, with the development of a modern heterosocial public sphere, such female homosocial semi-public spheres have become devalued, turned into something 'merely private', or simply disappeared.

7.4   Gendered forms of governance in colonial settings

As we have seen, colonialised populations were not the sole objects of the civilisation discourses of European powers; the leaders of emerging nation-states also felt the need to respond to the discourses that divided the world in modern, civilised nations and those that had not yet attained such a status. The colonial context did, however, make a difference in that it politicised women's appearance in the public in a specific way. As I will argue, this went beyond the fact that the rulers of emerging nation-states could promulgate dress regulations from above (even if resisted), whereas the local reformers in colonialised settings did not have such power, in part because they were members of the subject population.

Whereas others, also in this volume, have pointed out that the governance of Islam (and its effects) depended on length, depth and the general nature of colonial involvement, on the ways in which colonisers and colonised populations engaged with religion and on the particular historical moment, the focus here is on how it was conditioned by the particular field of contestation, in this case being sartorial practices linked to Islam. Colonial administrators generally claimed non-interference with the 'customs' of the local population, which seemed to include more or less everything involving women, be it their access to education, the system of family law or their appearance in or absence from public. Yet, as many have argued, such forms of non-interference were in fact highly political, selectively freezing, as it were, the status quo in particular fields.[9] Moreover, ideas about the substance of such 'customs' were often based on stereotypical ideas about gender hierarchies that were common among colonial administrators. So rather than maintaining the status quo, their attempts at conservation may well have been constitutive of such social facts. In Egypt and Palestine, for instance, colonial administrators used the argument of culture to neglect girls' education despite the fact that local associations asked for governmental support for girls' schools (Ahmed 1992; Tibawi 1956: 230). In Aden, Yemen, the British administration employed British judges and Indian barristers to transform Islamic law into a specific legal discourse that contributed to the endurance of the 'traditional' roles ascribed to men and women, the way the British understood these roles (Dahlgren 2004).[10] Therefore, it is important to recognise that the categories and meanings of Islam and gender were not simply already there to be applied, but rather were produced in the course of contestations between colonisers and colonised.

Two examples, Egypt and Algeria, indicate how Islamic head covering was politicised under colonial conditions.[11] The first major pubic debate on veiling in the Arab press, the publication of Qasim Amin's *The Liberation of Women* in 1899, took place in Egypt, at the time under British rule. This book was not so much controversial because it discussed women's liberation – it was neither the first to do so nor was it particularly radical – but rather because a prominent Muslim, an Egyptian judge, argued for abolishing the veil within the framework of a broader cultural transformation (Ahmed 1992: 144ff). The ensuing debate indicates how the colonial presence complicated the modernising, reformist projects of Egyptian intellectuals.

It is important to note that the protagonists of unveiling in Egypt framed their writings within the context of an Islamic tradition of reform, and that their target was not head coverings, but the face veil. As Amin stated in the introduction to his chapter on veiling, had the face veil been obligatory in Islam, he would not even have touched the subject. But this still raises the question as to how he argued the case for *un*veiling. His main line of argumentation was that veiling was not simply 'a great hindrance to a woman's progress, but indeed to a country's progress' (Ahmed 1992: 47ff). In Amin's view, veiling entails seclusion and, as a result, stunts a woman's development. In order to benefit from formal education, girls need to be able to interact with people outside of their own narrow circle and to experience the world firsthand (Ahmed 1992: 48). Only then will their abilities and emotions develop and will they become suitable wives for their educated husbands and, even more important, the right kind of mothers to educate the future citizens of the nation (Ahmed 1992: 71). Moreover, education is also crucial for the acquisition of a particular disposition. In Amin's view, a well-educated woman would not need a physical veil as 'her state of mind will itself become an impenetrable veil and fortress protecting a woman from all forms of corruption at each stage of her liberation' Ahmed 1992: 56). The notions of domesticity that Amin propagated, with women preoccupied with the care and management of their husband and children in the context of a nuclear family, were substantially different from existing patterns, where women were also substantially involved in wider kin relations and spent a large part of their time in homosocial women's circles.

The above indicates that Amin's ideas about unveiling were to some extent similar to those expressed in Turkey and Iran at the time, yet the colonial context had its particular effects. The position of liberal nationalists such as Amin, who considered unveiling as necessary to catch up with a more advanced West, was similar to that of the colonial administrators and with the Western discourse on Muslim women, in general. His critics, often disadvantaged by the British presence in Egypt, labelled veiling (and women's seclusion) as a central element of the

authentic Islamic cultural heritage of the Egyptian nation, as well as a symbol of resistance to foreign rule (Ahmed 1992: 162).[12] Some early Egyptian feminists, such as Huda Sha'rawi, agreed with Amin insofar as she also evaluated Western civilisation positively (Ahmed 1992: 178). There is, however, a general difference in the ways in which male and female intellectuals argued the case for women's right to unveil. Amin (1992: 32, 51, 71) not only drew a highly negative picture of Egyptian women, but men generally tended to address women's issues in a more abstract and symbolic manner; women were far more aware of women's everyday problems and approached these issues from a more practical point of view (Baron 1989: 371; 381). In fact, the male participants in these debates – both those arguing against and those in favour of the face veil – often seemed uninterested in women's points of view on the matter. It is also worth noting that upper-class women activists, such as Huda Sharawi, retained the veil; in their eyes, society was not yet ready for unveiling, and it would simply be a matter of time until the face veil disappeared (Badran 1995: 22).[13]

French colonialism in Algeria was in some respects very different because Algeria was considered an integral part of France. This resulted in strong tensions between an assimilationist stance, which theoretically implied that Algerians could become French, and a form of settler colonialism that produced strong, racialised hierarchies of the Algerian population with Muslim Arabs at the bottom end. Although secularising measures were already taken in the early years of the Third Republic (from the 1870s on) and Jewish Algerians were given citizenship, Muslims remained excluded because of their presumed backwardness; only those Algerian Arabs who were willing to give up Islamic law could be naturalised (Scott 2007). Governing Islam in Algeria was not so different from other colonial settings in which the colonial state also supported those they considered their allies in keeping religion far removed from politics. Moreover, with respect to veiling, the French discourse was part and parcel of the general Western discourse, with Algerian women stereotyped as both sexually available prostitutes and oppressed women (see Clancy-Smith 1998). It was, however, during the Algerian War (1954-1962) that the veil acquired tremendous political significance, becoming associated with militancy for the first time (Scott 2007: 61). Whereas the French establishment became increasingly convinced of the futility of attempts to assimilate Algerians, those who wanted to keep Algeria French increasingly turned to Algerian women, attempting to win their loyalty to the French cause by liberating them from oppression. One event stood out in the politics of unveiling. In May 1958, rebellious French generals organised demonstrations to show their determination to keep Algeria French; at one of these, a small number of Algerian women were publicly unveiled by French women. Interpretations of this event vary, but

one thing was clear. While women had already used veiling as a strategic device in the war, and the active participation of unveiled women had been used by the National Liberation Front (FLN) to gain popularity in Europe, now unveiled women were turned into symbols of support of the French, politicising women's bodies in a new manner (Lazreg 1994: 135; Seferdjeli 2004: 47). As a result, retaining the veil became a means of national defence for Algerians, and many women who had earlier unveiled started to wear the veil again (Badran 1995: 23).

In other words, there certainly are differences in the gendered governance of Islam in colonised and non-colonised settings. In the emerging nation-states, authoritarian secularism entailed a strong top-down governance of the population, with attempts to de-Islamise and desegregate the public sphere by requiring the public presence of women's bodies. In colonial settings, however, local reformers aiming at similar transformations of the public were faced with colonial administrators who argued against interfering in 'local customs and traditions'.

Still, both the leaders of the emergent nation-state as well as the nationalist reformers in the colonies were confronted with a long-standing Western discourse on Oriental/Muslim women that defined them at once as sexually enticing, morally inferior, downtrodden and oppressed by their own men and culture (Yegenoglu 1998). Their preference for the aesthetics of the powerful is not simply a means of accommodation to the status quo, but dressing like the powerful can simultaneously be considered a form of asserting a position of equality (see also Ross 2006: 141ff). Yet, especially in cases where colonial administrators used the discourse of Muslim women's oppression to underline their own superiority, supporters of unveiling were placed in an awkward position because their opponents could question their claims to authenticity and their loyalty to the nation.[14]

7.5   Post-colonial times: Discourses on Islamic head coverings in Western Europe

Turning to contemporary Europe, we see how controversies about Islamic head coverings emerged when girls wearing headscarves started to appear in public schools in the mid-1980s, and when they went to work as civil servants and in the private sector about a decade later. Starting in the 1980s, the tensions inherent in a notion such as the nation-state (as an effect of homogeneous nations claiming sovereignty over particular territories) became increasingly visible in Europe. By then, many countries came to realise that the labour migrants recruited some decades earlier had come to stay as new citizens of Europe. Labelled first as temporary guest workers, they soon came to be addressed as ethnic minorities.

Moreover, former migrants, colonial subjects and asylum seekers from the Muslim world were increasingly interpolated as Muslims, with some of them also identifying themselves as such. Islam, however, was not a neutral category. Whereas large parts of Western Europe had been experiencing a process of de-confessionalisation, at least from the 1960s on, the Muslim world, in contrast, witnessed the emergence of Islamic revivalism and the establishment of the Islamic Republic of Iran in 1979. After the fall of the Berlin Wall in 1989 and the Rushdie Affair in the same year, it was no longer the red (i.e. communist) danger, but the green (i.e. Islamic) danger that came to be seen as the enemy. European national identities were increasingly defined in opposition to Islam, be it in terms of strong secularism, a Judaeo-Christian heritage or a mixture of both. In combination with a growing neo-nationalism, visible in a turn to populist anti-Islam politics, this has engendered a broad shift towards the 'culturalisation' of citizenship and more assimilationist policies from the mid-1990s on and even more so after 9/11.[15] As a result, Muslims are increasingly pressured to prove their loyalty to European nation-states and their central values not simply by refraining from violating the law, but through their everyday behaviour, with women's corporeal performances carrying a particular weight.

If we consider secularism a mode of governing individuals and collectives, the paradox we are confronted with is that the modern secular state claims the separation of state and religion, yet simultaneously defines how state and religion should relate to each other and, in doing so, defines and regulates religion. References are often made to neutrality of the state vis-à-vis religion, but even if we only focus on one particular field of contestation – that of wearing Islamic head coverings – interpretations of what such neutrality entails vary widely. Differences do not only occur between nation-states with different secular regimes, but also within nation-states in different fields of governance (e.g. the political and the legal; see Joppke 2007: 314). They also pertain to specific actors (e.g. students or teachers) at particular locations (e.g. public schools) and are temporally affected by both external and internal political events.

An analysis of attempts to regulate wearing headscarves in public schools in France indicates that interpretations of *laïcité* (French for 'secularism') have changed substantially in the last two decades.[16] In its 1990 ruling, the Conseil d'État (Council of State) argued that wearing a headscarf in itself was not necessarily in conflict with *laïcité*, nor did it need to be viewed as a sign of proselytising. In order to judge whether such would be the case, the behaviour of the concerned students needs to be taken into account, something best done by local schools themselves. In 1994, when the Minister of Education argued that certain signs (such as the headscarf) are in themselves acts of proselytising and decided to ban all ostentatious signs of religious affiliation from public schools, the

Conseil d'État rejected this and appointed a Muslim woman as official mediator for problems concerning headscarves in schools. A decade later, interpretations of *laïcité* had changed considerably. In 2003, a bill was presented to outlaw all religious signs in public schools, and a commission chaired by national ombudsman Bernard Stasi was appointed to explore its feasibility. On the basis of the commission's report, a new law was passed in 2004 that prohibited the wearing of conspicuous signs of religious affiliation in public schools, including 'veils'. With the wearing of head coverings prohibited in public schools, the freedom of religion had become redefined as 'freedom from religion' (Scott 2005: 113).

In Germany, by contrast, there is no strong separation of church and state, and the neutrality of the state has not been taken to refer to restricting religion to the private sphere.[17] Nonetheless, German state regulations with respect to headscarves also indicate a partial shift in the interpretation of state neutrality, which includes ideas about which forms of religion are acceptable and which are not.[18] In Germany, the focus in headscarf debates was not on students, but on teachers in state schools, with the argument that the latter, as representatives of the state, need to be 'neutral'. Intense debate erupted in 1997 when an elementary state school in Baden-Württemberg refused to hire Fereshta Ludin, a teacher of Afghan background, because she did not want to take off her headscarf. In the course of the ensuing debates, some participants raised the issue of the 'Christian-occidental' cultural heritage of German society. When the federal court in Baden-Württemberg decided to ban the headscarf for teachers in public schools in 2003, it was evident that the court did not interpret neutrality of the Constitution in terms of a neutral position towards religious affiliations.[19] Rather, it underlined the need to protect students against exposure to the influence of an 'alien religion' (Bruck 2008: 56). Whereas in France the notion of secularism had been interpreted in terms of a sharp rupture with its Catholic past, in Germany it was seen as entailing a continuity of the Christian tradition, with the separation of religion and politics viewed as an exclusive characteristic of Christianity (Amir-Moazami 2005: 271).

In the Netherlands, freedom of religion was and still is the very grounds for allowing students as well as teachers to wear headscarves in public schools. In the Dutch context, the historical weight of the 'pillarisation' system has enabled Muslims to make rights' claims on the basis of freedom of religion. This system allows for the equal treatment of different religions in public and the right to publicly practise one's religion.[20] Still, Muslim women's appearance in public has become the topic of heated debate, albeit in the Dutch case focus has been on the face veil. Whereas in 2005 a parliamentary majority voted to prohibit wearing a face veil in all public space, such a general prohibition turned out to be unconstitutional. Instead, specific prohibitions have been implemented

for civil servants and in schools. Carefully avoiding any references to Islam, these prohibitions are formulated in terms of any face covering that impedes communication and poses problems for identification and security (Moors 2009a: 396ff).

Although there are obvious differences in national regimes of secularism and state governance of Islam, a broader trend towards a more assimilationist stance is discernable, with Muslims being expected to prove their loyalty to the state. Muslim women are targeted in a particular way as they are required to demonstrate their national belonging by refraining from covering their heads in particular settings. Although there are divergences in how specific nation-states regulate wearing Islamic headscarves or face coverings, two lines of argumentation stand out when referring to gender relations and undesirable forms of Islam.

First, Islamic head coverings are considered a sign, symbol or instrument of women's oppression (at the hands of the men in their families or the wider ethnic-religious community). In the French context, this discourse is explicitly present in the report of the Stasi Commission, which argues that headscarves in themselves are objectively a sign of women's alienation and that women wearing Islamic head coverings were pressured into doing so by their communities (Bowen 2007: 208ff; Scott 2007: 151ff). The commission failed to consider that at least some women wear a headscarf as a religious practice or obligation rather than as a symbol of something else; it also never entertained the possibility that there might be girls who want to wear a headscarf but are prohibited from doing so (as argued by Asad 2006: 501). Although such a discourse was particularly strong in France, with its emphasis on the value of *mixité* (i.e. gender mixing) and the public visibility of women's sexuality, some participants in the debates in Germany used similar lines of argumentation, defining headscarves as forced signs imposed on women (Amir-Moazami 2005: 273). In the Netherlands, the link with women's gender oppression was explicitly made during parliamentary deliberations about the need to prohibit face veiling (Moors 2009a: 401).

Secondly, and related to the previous point, Islamic head coverings and face veils are also considered a sign of adherence to undesirable forms of Islam. This is not simply an Islam that is visibly present in the public sphere through particular sartorial practices, but rather a political, fundamentalist, orthodox or segregating form of Islam, constructed in opposition to a positively valued liberal, secular or moderate Islam (Bowen 2007: 182ff; Fernando 2009). In France, Islamic head coverings were designated as a conspicuous sign, regardless of the intentions of the people wearing them; they were considered a sign of adherence to political Islam. Since wearing a headscarf brings one's private religious convictions into the public eye and highlights differences between citizens, it is seen as strengthening communalism; as such, it is a threat to the republic (Bowen

2007: 155). In Germany, although to a lesser extent, some also considered the Islamic headscarf a political and missionary statement and a sign of cultural segregation, contributing to the development of parallel societies (Amir-Moazami 2005: 272). In the Dutch public debate, similar arguments were presented about women wearing face veils. It is important to note that this was less common in parliamentary deliberations, as arguing with reference to political Islam could easily be considered an infringement on the freedom of expression (Moors 2009a: 403). Women wearing headscarves (in France) or face veils (in the Netherlands) are then seen as part of an international Islamist network that has no place in Europe, with their styles of covering viewed as an indication of their disloyalty to the nation-state and as a refusal to integrate into mainstream society. How and to what extent can we find traces of the colonial governance of Islam in these post-colonial discourses and practices?

7.6   Regulating Islamic coverings: Traces of a colonial past?

In the first part of this chapter, I raised the question of how present-day post-colonial governance of Islamic head coverings in Europe resonates with colonial forms of governance. Associations of Islamic coverings with women's gender subjugation and undesirable forms of Islam have a long history. Nevertheless, it is evident that the authoritarian leaders of emerging nation-states such as Turkey and Iran were more active in imposing dress regulations on their subject-citizens than colonial administrators. These modernising rulers promoted secular forms of governance that shaped the presence of Islam within the confines of the nation-state. Banning recognisably Islamic forms of dress from the public sphere was an attempt on the part of the new leaders to strengthen their position internally vis-à-vis the religious establishment and externally vis-à-vis increasingly powerful European nations ('the West'). Dress regulations that employed a Western aesthetic and removed signs of religion from public were a means to present the nation as modern and civilised. What mattered was the generally increasing inequalities between European powers and the Middle East, with the ruling elites of the latter searching for means to regain their position, rather than direct colonial forms of governance.

Colonial administrators were far less interested in regulating the appearance of their non-citizen subject populations. The aim of the colonial project was not the assimilation of the local population, but rather the maintenance of the status quo. When arguments were made in colonial settings to restrict particular styles of Islamic dress, liberal Muslim reformers were the ones who made these propositions. It is true that colonial administrators were influenced by the trope of Muslim women's oppression, which they avidly employed to legitimate the colonial project as a

civilising mission, but their concern largely remained at the level of rhetoric. In the field of politics and economics, however, the situation was different. When the public presence of religion was considered a real or potential threat to colonial rule and Islamic sartorial practices became linked with such forms of political struggle, non-intervention was not an option.

A comparison with the post-colonial governance of Islamic dress indicates that states following a more interventionist policy are working in a way that is more similar to that of the rulers of newly emerging nation-states than to colonial forms of governance. At the same time, however, traces of colonial discourses are present in contemporary debates, in particular, the frequent references to Muslim women's gender subjugation and the ways in which this is employed to underline Islam's difference from and inferiority to Western culture. This also explains why the Islamic veil worn by women is considered more problematic than the Islamic beard worn by men. Whereas unveiling can be seen as a generous act of liberating Muslim women, prohibiting beards does not do the same work.

If the discourse of Muslim women's subordination has a great stability, the contemporary European context is, however, different. Whereas in colonial times Muslim women's emancipation was defined in terms of access to education and the restructuring of family and kinship relations, with their public presence conditioned on self-discipline and a desexualised body-language, present-day notions of women's emancipation in Europe tend to underline sexual freedom and, in particular, the public visibility of women's sexuality.[21] The ways in which Islamic coverings are linked to undesirable forms of Islam has also shifted. In colonial times, the rulers of emergent nation-states, colonial administrators and local reformers saw such forms of dress as a sign of backwardness. In contemporary Europe, politicians and policymakers more often regard veiling as a political act, one that points to strongly disliked forms of Islam with fundamentalist or segregating agendas. Muslim women who wear head coverings may also consider themselves political actors, but in a very different sense. As citizens or residents of liberal nation-states, they claim rights of freedom of religion and of expression, which includes the right to wear headscarves. The tension between being defined as subordinate and defining oneself as a political actor is largely a contemporary phenomenon.

Notes

1   This publication is the result of research funded in part by the Cultural Dynamics
     Programme of the Netherlands Organisation for Scientific Research (NWO).

2   To what extent this actually affected local practice is a question that cannot be addressed here.

3   Shusterman (1997) elaborates on the distinction between experiential and representational aesthetics, while also pointing to their interrelations.

4   As Quataert points out, the first laws against immodest public display were issued in the 1720s because women were imitating Christians in clothing styles, nearly bankrupting their husbands, as well as hurting artisans and second-hand cloth buyers. As a result, a decree was issued to specify the widths and measurements of items for outer coats and head-gear (Quataert 1997: 409). In a similar vein, during the reign of Sultan Abdulhamid II (1876-1909), women were required to wear a thick black veil and gloves (Norton 1997: 157). This was also in response to Western styles of dress that were spreading among Ottoman women.

5   This section builds on Moors (2005).

6   Criticising liberal political theory, Pateman (1988) has defined this as a shift from paternal to fraternal patriarchy, a move towards the rule of men as men rather than of men as fathers.

7   For similar lines of argumentation, see also the various contributions to Abu-Lughod (1998).

8   For examples from urban Yemen, see Meneley (1996) and Bruck (1997). In settings where gender segregation is less central to social organisation, such as in the West Bank city of Nablus, forms of a semi-autonomous female public sphere still operated in the 1980s through the monthly *istiqbâl* ('reception'), a formalised visiting circle with each participant having one fixed date a month set aside to receive the others at her home.

9   See for, instance, Jeppie in this volume.

10   This followed Anglo-Mohammadan court practices quite similar to those they used to deal with Islamic law in India.

11   Whereas Egypt was only briefly under formal British colonial rule, from 1882 to 1922, the dependence of Egypt on Britain both preceded and succeeded that period. The French ruled Algeria from 1830 to 1962.

12   In the latter case, Amin's (1992: 55) criticism of lower-class culture most likely played a role as well. One reason he was critical of seclusion was that 'traditional' upper-class women socialised with lower-class women and with less respectable and chaste women.

13   Only after independence, when the new rulers refused to grant women the right to vote, did some of them turn unveiling into a political issue. Returning from an international women's congress in Rome, Huda Sha'rawi and her protégée, Saiza Nabarawi, uncovered their faces at the Cairo railway station as a public oppositional act and distributed photographs to newspapers (Badran 1995: 93).

14   See for, instance, the position taken by British High Commissioner for Egypt Lord Cromer, as stated by Ahmed (1992).

15   The term 'neo-nationalism' is taken from Gingrich (2006), who points to the emergence of a turn to nationalism in Europe that constructs the nation both against larger/higher units (such as the European Union) and against smaller/lower groups (such as immigrants).

16   For these debates, see Asad (2006), Bowen (2007) and Scott (2007).

17   Germany has often been seen as a strong contrast case to France because of the different notions of citizenship, defined in terms of ethnicity (jus sanguinis) rather than as a contract of the territorial state with its citizens (jus solis). In the course of the last five years, however, rules about citizenship have also moved in a similar direction.

18   See Amir-Moazami (2005) for the German case.

19   In Germany, state governments operate relatively autonomously, especially with respect to the field of education. This has resulted in different rulings in different *Länder*.

20   'Pillarisation' refers to the segregation of society along confessional and ideological lines ('pillars'), with the elites from each pillar cooperating in political administration (Lijphart 1968). Although this system started to disintegrate from the 1960s onwards, and Muslims have not succeeded in developing their own pillar, pillarisation has engendered a certain willingness to accommodate religious difference in the public sphere.

21   This emphasis on sexual visibility not only produces a particular tension with head covering styles, but the general public also has a more positive view of Muslim women who combine headscarves with fashionable, colourful and tighter styles of dress than of those who wear less fashionable, darker and loose-fitting styles of dress (Moors 2009b).

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Chapter 8
Seeing like an expert, failing like a state? Interpreting the fate of a satellite town in early post-colonial Pakistan[1]

Markus Daechsel

8.1   Introduction

This chapter presents the story of Korangi, a late-1950s new town just outside Karachi, with the aim to better understand the relationship between the Pakistani state and its Muslim population. This story has never been told in any detail before, largely because substantial information has remained locked away in dysfunctional or inaccessible archives.[2] Nevertheless, and without giving too much away, the larger narrative can be condensed in a way that makes it immediately familiar to anybody interested in post-colonial development projects: an ambitious but highly insecure military regime decides to sort out the mess created by its civilian predecessors. With the help of foreign funding and foreign expertise, it decides to put into place a vast public housing initiative – an entire satellite town for up to half a million people. It all looks great on paper and is also quickly translated into concrete reality. But as soon as the new residents begin to impose their own unforeseeably complex needs and requirements, and as international funding dries up, the project 'fails' as spectacularly as it was pulled off in the first place.

   As it turns out, the story of Korangi is far from an open and closed case for what James C. Scott and others have so influentially analysed as the inherent fallacy of grandly conceived 'mega' projects (Escobar 1995; Mitchell 2002; Scott 1998). In fact, as this chapter seeks to demonstrate, it requires an almost opposite interpretation: things went 'wrong' not because states 'see' and then act in a way that necessarily collides with a much more complex local reality, but things go 'wrong' because some post-colonial states are not nearly as ambitious as the progenitors of great plans; in fact, within the scope of their much more limited structural needs, there is not even sufficient ground to speak of failure at all.

   While engaging with this larger problematic, this chapter also touches upon several themes that stand at the heart of this volume. Through ordering space in a particular way, Korangi was, at least potentially, a tool of governance. More specifically, the project involved questions about what provisions a state should make to maintain 'authentic' Muslim community life. These are precisely the kind of questions faced by post-colonial

and metropolitan governments seeking to accommodate 'Islam' as dis-
cussed in several other contributions. It is no surprise, for instance, that
disputes over the building and authorisations of neighbourhood mosques
should recur both in 1950s Korangi and in the late twentieth-century cities
of Western Europe. Moreover, precisely because of its entanglement in
questions of 'post-colonial' development planning, the case of Korangi
also highlights how standard assumptions about post-colonial statehood
can easily hide strong continuities in governmental practice across the
colonial/post-colonial divide.

      This chapter is divided into three sections: the first two – one about
what Korangi was supposed to be and one on how it actually turned out –
provide an ethnography of the case; the third returns to the problematic
sketched out above and offers an engagement with the question of gov-
ernmentality in a post-colonial Muslim nation.

8.2 The project

The Korangi project was the largest slum clearance and urban rehabilita-
tion measure in Asia of its time and the most spectacular single 'develop-
ment' initiative by a Pakistani government since the country's foundation
in 1947. Within weeks of General Ayub Khan's military takeover in Octo-
ber 1958, a site was selected, funding was secured from USAID and the
Ford Foundation and a foreign consultancy firm – the Athens-based
Doxiadis Associates (DA) – was contracted. By the summer of 1959, the
first batch of 15,000 housing units was complete and by winter the same
year, Ayub ceremoniously handed over the keys to the first residents.[3]
Heralded as the showpiece of a new commitment to 'modernisation',
Korangi was immediately put on the itinerary of foreign dignitaries and
journalists visiting Pakistan, including Ayub's most powerful foreign
patron, American president Dwight Eisenhower, who came in December
1959.[4]

      In the first instance, Korangi was designed as the cornerstone of a
massive refugee rehabilitation scheme. The vast majority of Urdu-speak-
ing Muslims leaving the Indian Union for Pakistan over the decade fol-
lowing the partition of the old British crown colony chose to settle in the
urban areas of Sind province, particularly in the new capital city of Karachi.
Their arrival transformed the former trading centre of modest size into a
metropolis of one and a half million inhabitants, triggering an unprece-
dented housing crisis that no civilian government prior to Ayub's takeover
had been able to deal with (Ansari 2005: 124-144; Khan 2007). The creation
of designated refugee colonies by various Pakistani state agencies had
largely remained a failure, particularly with respect to the economically
weak. Virtually all of the first 50,000 families to occupy Korangi were

destitute migrants from the Indian Union who had eked out a precarious
existence in refugee camps, in slum clusters in the very heart of Karachi
and in derelict housing properties left behind by Hindu refugees migrat-
ing in the opposite direction.[5] But the new township was meant to be more
than just another colony for the urban poor. Designed to provide all civic
facilities and readily available places of employment in a designated in-
dustrial area, the new development was expected to attract middle-class
and professional families of mixed backgrounds to grow into a 'balanced'
and relatively self-contained urban community in due course.[6]

   Although this was surprisingly underreported in the Pakistani press at
the time,[7] Korangi had been designed and planned as a specifically
'Muslim' township. The driving force behind this conception was not the
Pakistani regime, but Doxiadis Associates (DA), the Greek consultancy
firm involved in the project that sought to respond to the ideological re-
quirements of the Cold War.

   DA was founded and run by the urban theorist, architect and interna-
tional salesman Constantinos A. Doxiadis, who retained hands-on control
not only of the Korangi project, but also of his lifetime magnum opus:
Islamabad, the newly designed capital city for Pakistan. Doxiadis was
among the very first development consultants to operate on both a com-
mercial basis and at a global scale. His firm was active in more than
twenty countries, with commissions in Ghana, the United States, Greece,
Pakistan and Iraq, being among the most significant (Bromley 2003).
Doxiadis owed his success almost entirely to his close ties to the Ford
Foundation, which funded even his more fanciful projects without asking
too many questions, and his contacts in Washington, D.C., going back to
his time as Deputy Minister of Reconstruction in Greece during civil war
with the communists (Kim 2006). Doxiadis' planning discourse was de-
veloped in careful contradistinction to other forms of urbanism at the
time – particularly to Le Corbusier's uncompromising (and often seen as
left-leaning) espousal of the values of modernisation, but also to attempts
that advocated a return to vernacular traditions. As he himself was only
too clearly aware, Doxiadis was competing on a marketplace of develop-
ment packages, and what was to make his own designs attractive to Third
World governments and their metropolitan sponsors was precisely that
he promised spatial solutions that would somehow give due space and
importance to both 'modernity' *and* 'tradition'.[8]

   Although there was always a certain degree of unease about what was
even then called Islamic 'fundamentalism', US diplomats and policymak-
ers had long stressed that an adherence to Islam was a powerful weapon
in the fight against communism. It was an often repeated refrain in
geopolitical assessments – directly encouraged and abetted by the Pak-
istani side – that communism would stand less of a chance of success in
an 'Islamic' nation, and that Pakistan deserved special assistance as the

most important Muslim country to join pro-Western military pacts. Part
of the USIS (the US State Department's global propaganda wing) activities
in Pakistan included regular conferences and seminars for Islamic reli-
gious leaders, and there was a direct directive to stress the importance of
Islam in broadcasts and exhibitions explaining US policy.[9]

Doxiadis' planning discourse, which fitted US concerns for tradition
and religion so perfectly, was based on the emphatic requirement that
successful planning practice had to begin with a comprehensive view of
all aspects of human activity – something he called 'Ekistics' (Doxiadis
1968: 44-56). An important aspect of this approach was an exercise in
comprehensive surveying that would have to account not only for geogra-
phy, demographics, economics and architecture, but also – and extensive-
ly so – for history, cultural traditions and religious life. In the case of Iraq,
for instance, where DA was to draw up master plans for virtually all towns
of moderate and large size, a veritable archive of facts had been carefully
put together, resembling in many ways the District Gazetteers of colonial
India in terms of historical depth and detail. An important input into
these surveys was provided by the Egyptian doyen of Muslim vernacular
architecture, Hasan Fathy, who collaborated with Doxiadis as his most
important adviser on 'Islamic' issues (Pyla 2007). Doxiadis had also
prepared extensive notes and photograph collections of his several jour-
neys to the country, which not only covered local and historical architec-
tural styles, but also philosophical ruminations about the folk culture and
national character of Pakistanis in the different regions of the country.[10]
This, as well as the evidence he gathered in Iraq,[11] would provide the
backbone to the cultural aspects of his Korangi design.

When selecting an appropriate architectural style for the several
thousand mass-manufactured housing units in Korangi, Doxiadis modi-
fied some of the blueprints that had already served him well in Iraq, his
other big Muslim client country. The units were to contain one or two
rooms, a roofed veranda and a courtyard, which were grouped in such a
way as to allow for the separation of a male sphere open to visitors and a
more easily secluded female sphere.[12] At least in theory, it should be
possible for the residents of these units to easily modify and upgrade
these designs as their financial situation improved; in practice, however,
DA experts in the field tended to vehemently object to such modifications
when they threatened to limit the regularity and showpiece character of
Korangi.[13] The architectural design of the houses was kept deliberately
simple and any form of ornamentation added by residents was frowned
upon. Doxiadis justified this with an ad hoc theory about ornamentation
having 'Hindu' and 'jungle' origins, whereas the sparse architectural styles
he saw in the Himalayan foothills was in his estimation closer to proper
'Islamic' tradition and also coincided with norms of the 'classical' as the
yardstick of civilisation.[14] In order to add local characteristics and for the

practical purpose of ventilation, asbestos wind-catchers were added to the roofs of the buildings, again claimed to be rooted in local Sindhi architecture, but also replicating Doxiadis' townships in the Middle East.[15]

In addition to standard provisions for shops, schools and sports facilities at different levels of the community hierarchy, there were a number of special additions that Doxiadis believed to be essential to the healthy development of an 'Islamic' community life. They were all conceived on the back of extensive studies of classical Islamic architecture in the Middle East and South Asia, as well as on anthropological observation. Apart from public hammams, for instance, the Korangi plan provided for neighbourhood teahouses – one of the most beloved objects of Doxiadis' planning design. Perhaps inspired by the institution of the *kaphenion* in his native Greece, the consultant had taken numerous pictures of teahouses in Iraq and regarded them as the backbone of social relations in a Muslim neighbourhood.[16] Furthermore, neighbourhood clusters of a higher order would provide a covered market – again amply documented in the Iraq material as quintessentially 'Muslim' – and, of course, mosques.

The correct provision of mosques had been the subject of some debate, as DA was not entirely sure whether they were required for every neighbourhood or only for neighbourhood clusters of a higher hierarchical order. In consultation with Fathy, Doxiadis delved into both Islamic traditional texts and demographic calculations to determine the correct planning provision. As it was apparently stated in the *hadith* (the narrations concerning the words and deeds of the prophet), neighbourhood mosques should not be so close to each other that they would confuse worshippers as to where the call for prayer was coming from; at the same time, they should of course belong to the order of the 'human scale' and be accessible by a short walk to all residents in the community unit they were meant to serve; finally, the size of the mosque could be calculated by working on the assumption that only men would use them, and that only a numerically quantifiable proportion of the Muslim male population prayed five times a day. In the end, Doxiadis opted for the provision of mosques per neighbourhood cluster, a solution that had apparently worked well in Iraq, but which, as we shall see, was to draw a great deal of opposition by Korangi residents.[17]

8.3   Fickle patrons and non-compliant residents

The record time in which the first several thousand housing units of Korangi were ready to be shown off to the world in late 1959 concealed the fact that the provision of even the most basic amenities lagged far behind settlement – a fundamental flaw that both Ayub's government and Doxiadis were clearly aware of right from the start,[18] but decided to ignore

for the sake of short-term political gain. Invisible to the impressive sight
of row upon row of neat and tidy concrete houses, there was an absence
or shortage of all basic necessities of life. Water was only available from
improvised community taps.[19] For years to come, there was no sewage
system and, until the very end of the project, no electricity supply.[20]
Several fully occupied houses got badly damaged in the first monsoon
because storm water drainage had not been completed.[21] Most important-
ly, transport connections to Karachi remained hopelessly inadequate.
Teachers, doctors and businessmen could not be persuaded to set up shop
in what was increasingly seen as an urban wasteland miles from the city.
Although the local industrial area did turn out to be a long-term success,
it did not start growing until several years after the arrival of the initial
residents. Faced with immediate unemployment or having to spend a
much higher proportion of their meagre income and time on commuting
to Karachi, many local residents decided to sell their allotted houses to
speculators on the black market and move back to city centre slums. While
new refugee settlers could only be brought to Korangi by force, the vision
of attracting middle-class and upper-class residents never found any takers
at all.[22] The planned lease-purchase system of houses collapsed within the
first two years of the new township's existence, when the collection of
instalments from dissatisfied residents dropped close to zero.[23] Despite
its great enthusiasm for the project at the start, Ayub's government made
no serious attempt to remedy any of these fundamental problems. When
designated aid from foreign sources finally ran out by 1964, all further
government commitment to the project was terminated and its struggling
residents were left to their own devices.[24]

Neither the Pakistani regime nor the new settlers of Korangi were
particularly impressed by the 'Islamic' characteristics of Doxiadis' designs,
albeit for very different reasons. Criticism from bureaucrats and high
military officials – usually mild in character and expressed mainly behind
the scenes – did not aim at the question of Islamic 'identity' in city planning
from a consistent angle. It was mainly an exercise in assuming a sense of
overall authority over the wisdom of a foreign consultant. Never a great
champion of religious righteousness himself, Ayub insisted that Doxiadis
had overlooked a 'vital' institution of Islamic community life in his design:
central neighbourhood bakeries to provide fresh tandoori bread to the
residents. In Ayub's reasoning, it was a 'Hindu' custom to prepare *chapatis*
at home, and a 'proper' Muslim and Pakistani neighbourhood demanded
that this task be performed in a dedicated institution shared by all (Khwa-
ja 1998: 70). Apart from the obvious need for the new President and Chief
Martial Law Administrator to look interested and in charge, there was a
certain and largely theoretical concern for creating an image of a caring
and interventionist state in this suggestion.

For others, some of Doxiadis' provisions suggested backwardness. Both

in Korangi and later in Islamabad, where a similar design was used, officials voiced opposition to the provision of 'teahouses'. In the eyes of a high bureaucrat discussing the Islamabad plans, for instance, 'teahouses' had no place in the cultural landscape of Pakistan, as according to him they were primarily an East Asian institution. The same bureaucrat was happy, though, for the physical structures to be retained, as long as they were given a more forward-looking and international name; he suggested they be called 'cafeterias' along the North American model. Doxiadis was perplexed by this criticism as he had so carefully ascertained that 'teahouses' were in fact a Muslim institution, and even instructed one of his employees in Pakistan to find out whether the term '*chai khana*' was in fact used.[25] In the end, 'teahouses' were only built in the parts of Korangi and Islamabad that Doxiadis wanted to use as 'demonstration' sectors. They never thrived – not so much for any cultural reason, but because the rents charged to prospective landlords were too high to allow profitable business in a poor locality.

The relative disinterest shown by the Pakistani elite towards the 'Islamic' aspects of the Korangi plan was striking. Alleged 'religious insensitivity' had, after all, long been used as the standard killer argument in public architecture debates in the country. Ayub's government, although often seen as 'secular', offered no respite from this established discourse, as a number of domestic and international star architects found out at their peril when competing for major projects in Karachi, Islamabad, Lahore or Dacca. Official architectural commissions had become the favoured haunts of some of the most conservative and religiously inclined bureaucrats who would often annoy the technical experts with their autodidactic wisdom about what constituted the 'essence' of Islamic art.[26] Some 'Islamicising' sales talk had become compulsory for anybody to appear acceptable, even when the proposed 'religious' elements in a design were either not really religious or altogether irrelevant (Khwaja 1998: 125-134; Mumtaz 1999: 27-33). Doxiadis himself knew this business climate only too well when he contended that his gridiron layout for streets in Islamabad was actually based on the fundamentally geometric principles of 'Islamic' ornamentation.[27]

The reason all of this did not matter much in the case of Korangi will have to be taken up again later in this chapter: in the first instance, it had to do with the fact that the Pakistani elite associated matters of Islamic identity primarily with high visibility – with the realm of state architecture, or with 'capital' projects – not with the supposedly 'technical' issue of urban planning. It is striking that religious identity issues played so minute a role in the domestic architecture and the planning of city neighbourhoods for the elite and the middle classes, at least in the time period under review (Daechsel 2008). Secondly, and perhaps more profoundly, there was not enough appreciation that urban design could actu-

ally work as a tool of governance beyond some defensive considerations of order and control. In a place like Korangi, it was up to local residents to shape their own institutions at the neighbourhood level; and when they decided to undermine or resist Doxiadis' elaborate provisions in everyday practice, there was surprisingly little official sanction or censure.

Doxiadis' teahouse was one example, as were his green spaces, which were often filled up with unauthorised constructions quicker than the officials of the DA field office and the Karachi Development Authority (KDA) could have them removed. Most of the new central markets never attracted sufficient shopkeepers to be economically viable; once again, the rents were too high to allow for any profit and, although there was a captive constituency of customers, the local residents were too poor to sustain much business. Whatever needs they had in terms of shops, tea stalls and small restaurants were not addressed in the carefully demarcated 'public spheres' in the neighbourhood or neighbourhood cluster centres, but haphazardly and illegally in private residences.[28] To the consternation of the consultants and planning authorities, the official markets remained empty while people ran their shops from their living rooms, an act that was officially forbidden.

While several of Doxiadis' architectural norms were quickly violated by local residents, the fate of his signature rooftop wind-catchers offers a particularly poignant little vignette about how the design had mismatched realities: although both in line with local (although ironically, not refugee) architectural practice and despite being actually well designed to utilise the sea breeze for improving interior climates in the new housing units, many new residents closed them off or criticised them when asked about how they liked their new houses. They feared that the asbestos contraptions would allow thieves to enter their houses at night. Although planned to be a 'community' where small distances and face-to-face contacts were to engender trust, Korangi was seen as a dangerous and unstable place, as or perhaps even more threatening than the slum clusters that most of its residents had come from.[29] (It could be added that government officials disliked the wind-catchers for a different but equally revealing reason: they felt that air-conditioning units would be more 'up-to-date' – this in an environment where there was neither electricity to run them nor residents rich enough to purchase them.[30])

Perhaps the most significant and visible arena of resistance was the construction of mosques. As mentioned earlier, Doxiadis had been very careful to account for an 'appropriate' provision of places of worship that he derived from demographic and cultural calculations. As it happened, dissatisfaction with his provision and battles over the legalisation of illegally constructed mosques were one of the first key clash points between the planning authorities and the new residents. Most disputes followed a certain protocol: DA engineers in the field would come across makeshift

prayer areas – often no more than a cleared space with a makeshift canopy – in some space that was already demarcated for different use in the plans; they would approach both the KDA and their nominal oversight authority the NHSA for advice on how to deal with this matter; after recommending swift removal in a number of initial cases, the NHSA got increasingly drawn into battles typical for the 'politics of the governed' in a colonial or post-colonial setting (Chatterjee 2002; Hull 2009: 15-23). 'Community leaders' of various descriptions became involved in petitioning in favour of particular illegal structures, invoking both the good religious credentials of government and religious community 'rights'. The authorities were nervous about accusations that the government they represented was in any way hostile to 'Islam', as such an accusation would invariably lend itself to a kind of political mobilisation that could not be easily or legitimately silenced by the state. Like British colonialists before them, the planning authorities tried to appease local demand by legalising illegal mosques as often as possible, thus setting a precedent for a veritable politics of mosque construction throughout Korangi.[31]

If they were not already familiar with this well-established tradition of doing local politics from the colonial past, Korangi residents quickly became aware of the fact that mosque-building was one of the very few possible spatial activities that was protected against the superior authority of the state because of its religious nature. This was the one activity – the one demand – that could never have been restrained or silenced with reference to the expert's superior claim to truth. Mosque-building became the ideal symbolic site to make much wider demands for community power and community recognition. The construction of a place of worship could literally provide visibility and control over space to social formations that the township design and the act of slum clearance had often tried to erase. After all, the new residents of Korangi were not simply migrant 'Muslims' who had quickly congealed into the physical moulds of Doxiadian neighbourhood communities after their resettlement. The new settlers had already been strongly socially networked when they arrived, in some cases according to the locality they had migrated from in India, in other cases according to *biradari* (network based on kinship or regional origin, 'fraternity') and caste and, in some instances, according to sectarian religious orientation.[32]

A significant aspect of this new local politics in Korangi was the sectarian nature of many of the mosque disputes. Shias and Ismailis often erected mosques in total disproportion to their actual population strength because they felt that they should receive the same recognition as the Sunni majority who often 'got away' with having their own structures legalised. Since the responsible officer in charge of mosque affairs at the NHSA was himself a Shia,[33] elements within the Sunni majority could in turn exploit decisions favourable towards Shia mosques as proof of pref-

erential treatment from the government, which they attempted to utilise in local power contests. Agitations for the legalisation of mosques quickly gave rise to agitations against the legalisation of the mosques built by one's rivals.[34] On both sides, other players quickly became involved; while the Ismailis, in particular, could count on support from some of Karachi's richest notables, underground religious parties such as the Jamaat-e Islami and the locally resident Deobandi ulama entered the fray on the Sunni side, quickly institutionalising their involvement by offering some form of local service such as mobile dispensaries or schools, which nobody else was willing to provide.[35]

Through the building of mosques, pre-existing social networks could reassert and symbolically express their presence. The new structures encapsulated the various groups' self-reliance and organisational capability and, as was often the case, also their ability to muster resources in the wider political field, as their battle for mosques often drew in the help of religious notables, political activists and elite philanthropists from elsewhere. This kind of politics was a direct continuation of local politics as it had existed in British Indian cities for a century or more. It was exactly the kind of politics that had attracted a largely defensive response from the state all along. As long as the kind of notables and activists involved were seen to be loyalists and as long as the conflict did not get out of control, the government would remain encouraging and distant, playing along with what went on without much ability to change the rules of the game. In the case of Korangi, the Pakistani authorities capitulated without so much as firing a shot. Doxiadis was told to reformulate his provision of mosques to allow for roughly four times the number he had originally calculated, and to make special allowances to different Muslim 'denominations' as well. As it turned out, this act of re-planning was not much more than a way of saving face after the act, as almost all of the hastily created impromptu mosques involved in disputes had already been legalised.[36]

8.4   Failing like a state?

On the face of it, the construction of Korangi township was a 'post-colonial' project par excellence. Its very raison d'être was to deal with the direct fallout of nation-state creation in South Asia after the departure of the British and to cope with the massive population transfer that followed. The idea that a new, legitimate and self-determined state in the 'developing world' should care for its people in ways similar to the emerging welfare states in Western Europe or the socialist states of the Soviet Bloc was very much the prevailing flavour of the 1950s. When Doxiadis set up his global consultancy business offering to build dozens of Korangis

around the world, there was a consensus that urban planning, in general, and mass housing for the poor, in particular, was both a sign of progress and a guarantor of political stability in times of rapid change. Mass housing thus turned into one of the few relatively uncontroversial development endeavours for which metropolitan power brokers from all political camps would mobilise financial and material support.[37] Korangi's ostensible 'failure' must appear as equally typical. The township was projected 'big', a massive new settlement dropped down onto virgin land, designed through and through by a 'great' expert – from the shape of door handles to the layout of regional traffic flows, as Doxiadis himself liked to boast. As is so often the case, local residents did not fit in with the 'great plan', and when faced with 'resistance' of various kinds, the 'developing' state cynically abandoned a project that it had executed with such efficiency and enthusiasm in the beginning.

Nevertheless, something is not quite right with reading the Korangi case study in this way. For one thing, although it certainly 'failed' according to the terms announced by Ayub's government at the time – or even more clearly according to Doxiadis' ambitious vision – it is far less certain whether Korangi really failed 'on the ground', as it were. Despite its abandonment by government, Korangi did in fact turn into a perfectly average lower middle-class neighbourhood of Greater Karachi. It has developed somewhat unevenly across the different original neighbourhood sectors to be sure, with sewage problems, a shaky electricity supply, traffic gridlock and so on, but it is by no means a slum. In fact, Doxiadis' overall plan has been preserved to a remarkable extent, although his special community provisions are now either defunct or changed beyond recognition by local initiative.[38]

This raises important questions about what 'failure' really means in the context of 1950s Pakistan. Or put differently, how might the complex nature of the state at the time be reflected in the Korangi project as *positive* agency, not as something that can be understood only through what it did or could not do? In addition, there is the related question of where to situate a not-quite-so-failing Korangi project within the colonial/post-colonial divide, which is one of the guiding themes of this volume. 'Big' failures as described above are largely situated within the post-colonial, where new and ideologically driven elites had both the ambition and ability to ride roughshod over local resistance (Scott 1998: 4-5, 88). As we shall see, however, Korangi actually points to longstanding continuities with colonial precedent rather than to the kind of new departures analysed so eloquently by James C. Scott.

There is clear evidence that post-colonial urban planning in Pakistan, including the Korangi project, was not as qualitatively different from colonial precedent as both its domestic and international sponsors would have liked to believe. Granted, the official rationale behind the creation of

Korangi – the settlement of refugees from India – was inextricably linked
to post-colonial nationalism. Urdu-speaking Muslim migrants from India
(beyond the zones of forcible mass expulsion) – or '*muhajirin*', as they
were designated by nationalist discourse after the paradigmatic 'refugees'
of Islamic salvation history – increasingly developed into a vocal political
constituency of their own (Ansari 2005: 74-121; Verkaaik 1994: 42-55).
They claimed an especially close ideological attachment to the ideals of
the new Muslim nation. By taking the usually voluntary step to cross the
border, the *muhajirin* claimed to have made a visible commitment to the
new nation that the 'sons of the soil' already resident in the country never
had to make. Pakistani nationalism, particularly in the western wing of
the country, was driven not so much by any positive content, but by an
intense feeling of rivalry with 'Hindu' India. The *muhajirin*'s experience
of leaving India without achieving a superior and more meaningful life
in Pakistan was an indication of the new country's 'failure', only compa-
rable to the other great national failure of wresting control over Kashmir
'from Hindu hands'. By successfully 'resolving' the refugee problem, Ayub
could prove to a much wider national constituency that under his leader-
ship, the Pakistan project at large had somehow redeemed itself.

The moral legitimacy provided by the *muhajirin* discourse, however,
went only too well with approaches to urban governance and urban
planning that had little to do with the ideology of the post-colonial nation
state, and everything to do with a much older colonial aversion to 'native'
city life and urbanity, in general. By labelling the problem of urban
overcrowding and irregular settlement a 'refugee' problem, the regime
could pretend that urbanisation in Pakistan was essentially a 'one-off' deal,
with a clearly identifiable 'one-off' cause and hence a 'one-off' solution
that did not include the need for much follow-up action. Such thinking
ignored the fact that mass migration from India was only *one* cause of
Karachi's infrastructure problems and that, in the medium term, other
forms of rural-urban migration would pose a much more formidable
challenge.

The problem, as Pakistani policymakers saw it, was not so much one
of understanding and managing the urbanisation process in ways that
would limit the negative effects of rapid urban growth – something that
in fact formed the backbone to all of Doxiadis' thinking – but essentially
how the unsightly side effects of urbanisation could be contained in such
a way as to make them politically and socially irrelevant. The main person
in charge of the Korangi project, Minister for Urban Rehabilitation Gen-
eral Azam Khan, was much admired for his no-nonsense efficiency even
by trained urban planners, but his ideas for improving city life were
largely confined to the strict policing of city space by clearing out 'unsan-
itary' encroachments. In his track record and experience as urban Martial
Law Administrator dating back to the early 1950s, this did not only include

slum dwellers, unauthorised restaurateurs and the like, but also political demonstrators and religious radicals. They were all seen to be embodiments of chaos, intrusions from an unmanageable world that should be eliminated.[39]

In Korangi as elsewhere, urban problems were regarded as solved as soon as the more volatile and less orderly aspects of urban life had been removed from sight. The most striking example of this reactive and negative attitude was perhaps Ayub's grandest urban project of all – the creation of a new capital city in Islamabad, in the thinly populated north-west of Pakistan. The directly stated rationale of the project was to remove the Pakistani bureaucracy from Karachi. The city was explicitly condemned as a 'political space' where linkages between intellectuals, businessmen and the men in political power could be formed, where mass demonstrations were possible and effective, where public opinion mattered.[40] Like Korangi, the Islamabad project was plagued by the mismatch of spectacular projecting and a blatant disregard for social and infrastructural planning, which arguably led to its long-term failure as a civic city. Korangi and Islamabad were the two sides of a strategy of enforced de-urbanisation – one aimed at the rich and powerful, the other against the politically troublesome and poor. Both combined would allow the regime to pretend that cities did not really matter and that power rested in a rural and ideologically 'non-political' system of control, which was later constitutionally enshrined in the Basic Democracies project.

British colonial rulers in South Asia, particularly so in the areas of the region that were later to become Pakistan, were similarly distrustful of the proverbial 'city of dreadful night'. The otherwise so impressive archival impulse, measuring and classifying any living creature under British control, was singularly underdeveloped and ineffective when making sense of city populations or rural-urban migration (Daechsel 2004). When introduced outside the big centres of Bombay and Calcutta, 'city planning' was often regarded by the Caucasian elite as an unnecessary 'fad' unsuited to the colony.[41] According to the visiting doyen of integrative city planning Patrick Geddes, all the colonial regime knew was precisely the kind of heavy-handed cutting-back and moving-out-of-sight that remained General Azam Khan's forte half a century later (Geddes & Tyrwhitt 1947).[42] In other words, urban planning was never really about controlling the inner workings of Indian city populations; for this, the British would rely – then as now, as suggested by Malik in this volume – on the 'community leader approach' of informal contacts with intermediaries (Gilmartin 1988: 73-107).

The British did, of course, engage in large-scale urban initiatives, most notably so in the creation of a new capital city of New Delhi. But, according to Stephen Legg's powerful analysis, what they were truly good at was the spatial separation and confinement of certain categories of people, as

well as the defensive policing of boundaries and cordons sanitaires (Legg & Royal Geographical Society (with the Institute of British Geographers) 2007). When it came to slum clearance operations, they never invested the necessary funds or even created the kind of institutional support that could make such ventures a success. It is this legacy that made Doxiadis observe upon arrival in Pakistan, that the country did not even possess a network of responsible institutions or public bodies that could be entrusted with large urban planning measures; a state of affairs that despite his lengthy lobbying efforts remained unchanged until his departure in the 1960s.[43]

Colonial city planning or post-colonial projects like Korangi did not 'fail' according to the scenario set out by James C. Scott (1998: 6, 76-86) in his widely received book on the perils of category mistakes in megaprojects. The main issue was precisely not what turned soulless concrete monstrosities, like the original Brunswick Shopping centre in London's Bloomsbury or the new town of Cumbernauld north-east of Glasgow, into 'failures' (Sennett 1977: 12-16) or, conversely, what made the *arbeiterburgen* in post-World War I 'Red Vienna' comparative success stories (Blau 1999). The willingness of the state to listen and to work with local initiative, agency and knowledge was not the problem – in fact, one could argue that when capitulating to unplanned mosques and markets, the Pakistani state was already giving carte blanche to local initiative.

Korangi was never the case of an overambitious state deploying crude but epistemologically necessary social categories to measure and plan its population, and then of mercilessly enforcing such categories in megaprojects of godlike ambition. The only player who would fit into this argument in the present context is Doxiadis himself, as he sought to construct an elaborate but ultimately hopelessly inflexible categorisation of Muslim social behaviour and Muslim 'needs' to serve as the basis for his ill-fated provision for mosques, shops, hammams, etc. This was in itself ironic, as in his own condemnation of Le Corbusier's megalomania and control-freakery, Doxiadis would have at least partly agreed with James C. Scott's critique of the 'Great Planner'.[44] His own avowed cultural sensitivity and respect for individual human agency, however, never really quite squared with his worldwide commercial interests and his reliance on mass-manufactured components. At the end of the day, Doxiadis' Korangi Muslims had to remain Scottian categories because he sought to sell Korangi as a model solution to a whole range of very different Muslim countries elsewhere.

But back to the Pakistani state under General Ayub Khan. Although Pakistani bureaucrats, planners and military commanders-turned-administrators were clearly very impressed by the visual impact of grand projects – the 'straight and wide roads in Soviet cities', for instance, Brasilia and Chandigarh in neighbouring India[45] – they understood such projects

primarily in terms of an aesthetic of what Foucault and others have called 'sovereign' power (Foucault, Senellart & Davidson 2007; Hansen & Stepputat 2005). What matters about such projects is not the actual long-term control they offer over people, but the decision, the big statement, the act of deliberate intrusion into people's lives that allow state power to stage itself in a highly theatrical fashion. If seen from this angle, projects like Korangi belong to the same class of state instantiations as public executions, mass meetings around great leaders and the bestowment of public gifts by the sovereign. They are events, not processes or institutions. Unlike other forms of power, sovereign power is rooted in the moment, not in continuous control over time. On these terms, Korangi had already succeeded when it was announced, inaugurated and shown to visiting dignitaries. It is entirely commensurate with the nature of sovereign power, that at these points, there should have been no consultation whatsoever with the recipients of state action, while after the moment of power had passed, a more or less free hand would be given to them (Daechsel 2011: 153-155).

Korangi was never really about the much more 'modern' and effective forms of control offered by what Foucault eventually came to call 'govern-mentality'. As his recently published lectures to the Collège de France make clear, this governmentality was not entirely independent of the kind of disciplinary policing his work is normally most closely associated with – distinctions between normal and abnormal, healthy and sick, deviant and compliant; but generally speaking, 'governmentality' worked in a radical-ly different way, according to the logic of 'security'. What Foucault meant was the non-interventionist 'management' of 'population' through careful statistical calculation. Rather than to discipline and punish, the most advanced forms of control accept things as they are and seek to minimise negative impacts by controlling 'circulation' (Foucault et al. 2007: 64). Translated into the field of urban planning – which Foucault himself did (Foucault et al. 2007: 12-23) – this captures precisely what planners like Doxiadis were most concerned about: the management of flows in urban space; of air in the house, of traffic, goods, electricity, water, etc. One needs only to recall the rather mundane instance of Korangi residents blocking off rooftop wind-catchers out of fear of intruders to realise that the facili-tation of 'circulation' was precisely *not* what they, or the Pakistani state, for that matter, ever wanted out of urban planning. As I have pointed out elsewhere, this is also why the state did not accord substantive help to integrate Korangi into the wider Karachi economy, why it was happy to see the urban poor quite literally taken 'out of circulation' in a faraway concrete wasteland (Daechsel 2011: 147-150).

8.5   Concluding observations

When seen on its own terms, the attested 'failures' of the Korangi project were in fact hallmarks of its success, both with regard to the post-colonial Pakistani state, and even – if we look at the long term and leave aside the undeniable trauma of the original process of settlement – for the residents themselves. The former could make the grand statement that it required for the purpose of self-definition (and receive the all-important slap on the back from their American patrons), while the latter could mould their new urban environment with relative freedom. James C. Scott's reified mega-state that brought so much misery to millions in developing societies never existed in Pakistan as more than a shadow, rather like the sometimes tried but never properly pursued 'town-planning fad' of colonial times. This is not to say that the Pakistani State was not powerful as such, let alone that it did not attempt or aspire to be powerful. The case of Korangi demonstrates that it was simply not powerful in the way that the states of twentieth-century Europe are, through an integrated Foucauldian package that combines sovereign, disciplinary and security power to maximum effect. Although sovereign power certainly produces its own ways of seeing, it does not depend on the pervasive conceptual apparatus of calculation and measurement that the other forms of power depend on. If comparisons are to be made about the ways in which Muslims are governed in colonial, post-colonial and metropolitan contexts, this radical discontinuity has to be given central importance.

Notes

1   Research for this chapter has been supported by a British Academy Small Research Grant and the Carnegie Endowment for Scottish Universities. A more extensive and differently framed companion piece to this article is published as Daechsel (2011); for full citation, see list of references.
2   A short and recent account can be found in Ansari (2005); for full citation, see list of references. This chapter relies to a large extent on the detailed records held at the Constantinos A. Doxiadis Archives (hereafter CADA) in Athens, Greece. I note with gratitude the assistance received from Klairi Mavragani and Giota Pavlidou over the course of my research there.
3   'Foreign aid for Korangi Scheme', *Dawn* (a pro-government Karachi daily) 16 November 1958, also 3 December 1958, 6 January 1959, 18 January 1959, 9 March 1959, 10 April 1959, Sunday magazine specials 17 May 1959 and 31 May 1959; for context, see ibid.
4   *Dawn* 7 December 1959.
5   S. A. A. B. Rizvi (1960), 'Findings on the socioeconomic and housing survey of the central flat areas of Karachi', Pakistan Institute of Ekistics, Archive File 20191: CADA; Dox PA 17, Development of the Korangi Area 2 June 1959: CADA, Pak Vol. 14, pp. 419-422.

6   Ibid., p. 428; Karachi Development Authority, *The Greater Karachi Resettlement Housing Programme* January 1961, p. 10.

7   None of the extended reports in *Dawn* went so far as to mention this aspect; see Sunday magazine specials 17 May 1959 and 31 May 1959.

8   See e.g. C. A. Doxiadis' 'The Arab metropolis', a lecture delivered at 'The new metropolis in the Arab World' seminar sponsored by the Congress of Cultural Freedom, Cairo, 18-23 December 1960: CADA, General Reports R-GA 211.

9   USNA: RG 469 Records of the US Foreign Assistance Agencies, 1948-1961. Deputy Director for Operations, Office of North-East, South Asia & Africa, Pakistan & Afghanistan Division/Pakistan Desk, Subject Files. Box 12, File Pakistan Programs 1955-1956. USIS Special East-Pakistan Program, USIS Karachi TOUSI-12, 26 August 1955. USIS Operating Plan for Pakistan, attached to TOUSI 64 Karachi, 2 April 1956.

10   Pakistan Vols. 1-4, 6-7, 12-13, CADA.

11   Reports R-QA 790-821, November 1957: CADA, Iraq Vol. 63.

12   Dox PA13, 'On house design in Korangi': Vol. 14 NHSA; R-PLH 31, 'Physical conditions and existing house types': Vol. 175, HAS 1963; Dox 40, Pakistan Diary 20 January 1955 – 24 February 1955, pp. 27-28: Vol. 4, CADA.

13   Memo KDA, A. S. Naim, 4 July 1961, attached to C-PKH 3313: Vol. 109, CADA.

14   Dox PP 88. 'Diary of my sixth trip to Pakistan' 21 February 1956 – 7 March 1956, p. 142: Vol. 7, CADA.

15   Ibid., pp. 59-60; R-QA 840, 'A report on housing for greater Mussayib' (Hasan Fathy) 28 December 1957: Iraq Vol. 64, CADA.

16   Dox 71, 15 December 1955, p. 438: Vol. 5, Dox PP 88. 'Diary of my sixth trip to Pakistan', 21 February 1956 – 7 March 1956: Vol. 7; C-PKH 2546 24 February 1961: Vol. 107, CADA.

17   C-PKH 1865 13 October 1960: Vol. 71, CADA; C. A. Doxiadis, 'The Arab metropolis' p. 3. Dox PA 97 (26 February 1961) 'Islamabad: Community buildings for sector G6', Vol. 41, p. 36, Capital Development Authority Library, Islamabad.

18   'Pakistan housing' TOICA 901, 24 December 1958, United States National Archives (USNA), Box 9: RG469, Records of the Foreign Assistance Agencies, Deputy Director's Office, Near East Central Files, Pakistan Subject Files, 1952-1958.

19   C-PKH 2381 24 January 1961, C-PKH 2667 24 March 1961, C-PKH 2875 20/04/1961: CADA Pak Vol. 107; C-PKH 4688 28 June 1962: CADA Pak Vol. 154.

20   C-PKH 2906: CADA Pak Vol. 108; C-PKH 4054: CADA Pak Vol. 153; Letter West Pakistan Government Hospital (Korangi) to KDA (n.d.), Pakistan Correspondence C-PKH 5663-6095, May-August 1963: CADA Pak Vol. 187.

21   C-Pak KH 7079, 19 August 1964: CADA Pak Vol. 213.

22   C-PKH 2660 24/03/1961, Progress of Activities in Social Planning for February 1961: CADA Pak Vol. 107. S. A. A. B Rizvi, 'Findings', p. 85.

23   'Demand and collection in Korangi (Arif)' C-PKH 5047 13 October 1962: CADA 'Archive file' 17928. C-Pak KH 6800 7 May 1964, 'Comments on the cost analysis of the Greater Karachi Resettlement Programme': CADA Pak Vol. 213.

24   Dox PAK LH 18, 16 May 1964, 'Rehabilitation of low income shelterless families in West Pakistan': CADA Pak Vol. 199.

25   Diary PA 102, October 1960, p. 154: Vol. 41, CADA.

26   Cabinet Records, File 385/CF/48 Land Control – Capital of the Federation. Me-
     morandum, 25 March 1952; Minutes Cabinet Meeting, 23 July 1952. Minutes
     Cabinet Sub Committee, 30 October 1952: National Documentation Centre, Is-
     lamabad.

27   DA PA 88 (30 September 1960) Programme and Plan Vol. I, Vol. 32, p. 254:
     Capital Development Authority Library, Islamabad.

28   G. M. Samdani, 'Social planning in Korangi', attached to S303 October 1964, p.
     25; I. Ullah, 'A study of a neighbourhood market in Korangi', unpublished Master's
     thesis, Athens Ekistics Institute, August 1961: CADA.

29   'Meeting Basic Democracies', C-PKH 1434, 18 June 1960: Vol. 69 Pakistan
     Correspondence, CADA. C. Salimullah, 'A study of the various house types con-
     structed for the low income people at Korangi', unpublished Master's thesis,
     Athens Ekistics Institute, August 1962, p. 48.

30   Letter Karachi Development Authority to DA, 16 May 1962, C-PKH 4884, 21
     August 1962: Vol. 155 Pakistan Correspondence, CADA.

31   C-PKH 2096 29 November 1960 Letter Lt. Col. S. S. Hasan, Director of Planning
     in NHSA, 26 October 1960: Vol. 71; C-PKH 2983 6 May 1961: Vol. 108; Letter
     Mashooq Ali, President, Kurrissian [Qureshian] Mosque, 6 April 1962 to Overseer
     in Charge Market 36/D; C-PKH 4444; C-PKH 4450, Petition Social Welfare
     Committee Y Area to DA 26 March 1962: Vol. 154.

32   As recognised belatedly by DA themselves; see Archive File 28888, 'Social plan-
     ning in Korangi' (1964): CADA.

33   Lt. Col. S. S. Hasan.

34   C-PKH 2833 17 April 1961: Vol. 108; C-PKH 3940, Letter residents of Landhi
     colony to Chairman KDA, 10 November 1961: Vol. 110; C-PKH 4652 16 June 1962:
     Vol. 154; Attachment to C-PKH 5243 Letter, 27 December 1962 Esmail Dossa
     Benevolent Trust; Letter Syed Wajid Ali, Anjuman-e Karwan-e Haideri; S. S. Hasan
     to DA 16 March 1963: Vol. 186, CADA.

35   J. A. Khan, 'Social needs in neighbourhood planning: A study of family functions
     to assess the social needs in planning community class III in Korangi', unpub-
     lished Master's thesis, Athens Institute of Ekistics, June 1961.

36   C-PKH 5623 20 April 1963, Letter NHSA to DA 18 April 1963: Vol. 186, CADA.

37   This consensus reached an early high point at the 1954 United Nations/Interna-
     tional Federation of Housing and Town Planning conference on tropical housing
     in New Delhi, where Doxiadis made his first international impression (Kyrtsis
     2006).

38   A very good demonstration of this relative success can be found in contemporary
     aerial photographs of Korangi available on Google Earth; see also assessment in
     Khwaja (1998).

39   Interview with Tariq Rahim, Lahore, November 2007. He is the son of the late S.
     A. Rahim, one of Pakistan's leading town planners of the first generation who
     had a close personal connection to Azam Khan. For an eyewitness account of the
     1953 'slum clearance', see the interview with Major General Imtiaz Ali,
     Rawalpindi, December 1999.

40   Government of Pakistan, unpublished secret document 'Report on the location
     of the Federal Capital of Pakistan', p. 31. CADA.

41   British Library, Africa and Asia: W3952, A. E. Mirams (1962), *An Address to Members of Municipality and Citizens of Poona on The Bombay Town Planning Act of 1915*, Poona, p. 2; see also 'What town planning means', appendix to Mirams' 'Town planning in Bombay under the Bombay Town Planning Act 1915', lecture delivered 5 December 1919 before the Town Planning Institute.

42   It is of direct interest here that compiler of the volume, Jacqueline Tyrwhitt, was a close associate of Doxiadis.

43   Dox 8, 2 November 1954, 'Instructions and directives for municipal programmes'; Dox 11, 'The problems of the human settlements in Pakistan', pp. 78-91: Vol. 1, 'Pakistan diaries and reports'; C-PKH 2324 12 January 1961, 'Report on my meeting with the governor and the government of East Pakistan': Vol. 107, Pakistan Correspondence, CADA.

44   Dox PP 78, 'Report on Chandi Garh', February 1956, p. 140ff: Vol. 6, 'Pakistan diaries and reports', CADA; Scott (1998). For a more general statement of Doxiadis' critique of 'anti-human' planning (which does, however, retain some sense of an exalted role for the planner), see Doxiadis (1971).

45   Interview with Tariq Rahim who, according to his daughter, was particularly fond of Soviet planning.

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Chapter 9
Continuities and ruptures in the governance of Islam in Malaysia

Karen Meerschaut and Serge Gutwirth

The question of the institutionalization or the accommodation of Islam in law can be compatible with democracy and the rule of law cannot be deduced from some essence of religions supposedly inscribed in the scriptures. Rather, they are the outcome of political struggles that push Islam toward democratic or authoritarian directions. (Bayat 2007: 8)

9.1   Introduction

The application of Islamic family law by Islamic courts of law has always been viewed with great suspicion in Western Europe. In a number of countries, emotions already run high in public debates about the headscarf, so it is no wonder that the issue of the application of Islamic law by sharia courts is very controversial. Apart from lengthy discussion the British have been involved in since the 1990s concerning recognition of a separate system of Islamic family law that would apply to British Muslims (Poulter 1998: 195-236), there have recently also been discussions in Canada about the establishment of an Islamic arbitral tribunal (Bader 2009: 49-72). Western countries uphold a tradition of a uniform family law that applies to everyone, regardless of origins, beliefs or ethnicity. Consequently, they are wary of the application of any group-differentiated family law, as it would lead to apartheid and segregation. Usually this view is supported by reference to the most striking and infamous features of Islamic family law, features believed to be immutable and irrefutable, including polygamy, marriage without the woman's consent, forced marriages involving minor girls, the one-sided repudiation of the marriage by the husband (*talaq*), the ban on Muslim women marrying non-Muslim men and the granting of custody of any children above age seven to the father. Another source of sharia law's negative connotations in the West is provided by the punishments it prescribes, such as the amputation of hands for theft and flogging for adultery, deemed barbaric, inhumane and cruel. Even a venerable institution such as the European Court of Human Rights (ECHR) declared: 'Syariah is incompatible with the fundamental principles of democracy as set forth in the ECHR.'[1]

In the Western debate about legal pluralism, the state's accommodation of religious or customary law and courts to govern marriage and divorce affairs is usually seen as a choice in favour of 'culture' rather than 'rights'. But in Malaysia, academics, lawyers and other parties involved in the Islamic family law reforms of the 1980s have contrastingly argued that 'Islamic law, properly understood, is a regime of rights'.[2] In this contribution, we will track and discuss developments of the relations between the state and Islam in Malaysia with regard to Islamic law and the sharia courts from pre-colonial times onwards. Heterogeneity, diversity and legal pluralism have never been strangers to Malaysian society, where separate legal systems for Islamic law (sharia courts) and customary law (in East Malaysia: the native courts) do exist in parallel to the secular legal system (Harding 2001: 242).[3]

In the literature on multiculturalism, plural states and modern Islamic societies, Malaysia serves as a major point of reference. The institutional and substantial reforms that have taken place in Malaysian Islamic law since the 1980s demonstrate that the conceptualisation of Islamic legal practices is contextual, and that these practices may well evolve in the same direction as their secular equivalents. The resulting system of Islamic courts and legislation in Malaysia can be perceived as both very Western and Islamic at the same time (Horowitz 1994 part 1: 233-293). Nonetheless, we will also highlight the weaknesses and dangers of the Malaysian approach to religious diversity and the perils lurking beneath the institutionalisation of differences. We will see that both the form and substance adopted by Islamic legal practices are, in fact, the outcome of political (and legal) struggles that push Islam into an either democratic or authoritarian direction. Whether momentum will either build up towards more gender equality or towards a stricter, more orthodox interpretation of religiously inspired rules depends on a wide range of political and legal factors, the power configurations between state institutions (bureaucratic power struggles), religious leadership and strategic players such as feminist organisations, human rights lawyers, intellectuals and radical Islamic groups (Otto 2007: 149; Horowitz 1994: n9).

In this chapter, we will describe the evolutions of the Malaysian pluralist judicial system from its pre-colonial roots (section 2) to its institutionalisation under the British colonial rule (section 3), as well as the complex changes it underwent during successive periods after independence until present day (section 4).

9.2   Islamic legal practices in pre-colonial times

Malaysian law has always been a hybrid legal system. It draws from indigenous customs in and around Borneo, Malay *adat* law, Islamic law

from the Middle Ages onwards, the establishment of common law with the consecutive arrival of the British in the Straits Settlements (Malacca, Penang and Singapore), Malaya, Sabah and Sarawak and, finally, Chinese and Hindu customary law brought along by Chinese and Indian immigrants in the nineteenth and early twentieth centuries.

Islamic law was introduced very gradually in Malaysia. Until the late nineteenth century, Malay Islam was primarily Sufi-inspired and concerned itself mostly with ritual and spiritual aspects rather than legal and political matters (Kamali 2000: 16). Furthermore, the espousal of a new religion (by way of tradesmen and Sufi missionaries in the fourteenth century) did not mean that pre-Islamic culture, containing numerous Hindu and Buddhist influences, was totally wiped out (Lee & Ackerman 1997: 31).

From the fifteenth to the eighteenth centuriers, the law comprised local versions of Islamic law practices and customary law, not believed to be in conflict. A number of 'Islamic' codifications were compiled, but there was no hint of a uniformly sanctioned Islamic system of law. Each sultanate had its own laws,[4] and these laws did not lay down any irrefutable, originally Islamic rules. Moreover, they were also informed by earlier non-indigenous Hindu and Buddhist traditions as well as the indigenous *adat*. The Islamic law rules in question were concerned with aspects such as the legality of marriage, witnesses at weddings, *talaq*, property claims, *wakaf* (religious donations or bequests) and prayer and confession practice (Aun 1999: 4-7). Apart from this, they mainly included aspects of status, rules of behaviour, etiquette and trade. Customary law played a bigger part in matters relating to property and inheritance rights. There is no general consensus on the influence and application of these first codifications.

The application of Islamic law and Malay customs in pre-colonial times was mainly left to elder relatives, village elders (*tuah-tuah*), village and district mosque leaders such as the *imam, penghulu, panglima* and *ketua kampung* (elected by the public and ratified by the Sultan) and, only in a last instance, to the Sultan.

> In the Malay context and Southeast Asia generally, senior kin, village elders, and local rulers were responsible for the administration of religious law and other matters bearing on religion and custom alike [...] Local elders, headmen, and their superordinates were assisted in the management of Islamic and other affairs by village-level Islamic functionaries, especially since there were no district-level or other supra village-level organisations of ulama (learned men, scholars of islam), nor any mufti (juriconsults) capable of issuing opinions with the authority of law or anything approaching law-like status. (Peletz 2002: 30)

All these men played a part in the community's schooling on religious rules and rights, in conflict mediation and in the administering of exceptionally harsh corporal punishments to offenders, including flogging for adulterers and executions for murderers; these sanctions were derived from customary law (Harding 2005: 303). Usually, though, conflicts were settled informally through negotiations, mediation and arbitration. These latter procedures were more in keeping with Malay culture, which had always held values such as mutual agreement, consensus and reconciliation in very high regard (Hassan & Cederroth 1997: 28-37; Peletz 2002: 26-38).

In pre-colonial times, Malay sultanates already exhibited a rudimentary religious structure at the village level, revolving around four priests: the *imam* (leader of a mosque or *surau*), the *khatib* (leader of the Friday prayer in a mosque or *surau*), the *bilal* (or *meuzzin*, leader of the call to prayer) and the *mukim* ('priest' of a mosque or *surau*). It is still debated whether a specific Islamic judicial system (Islamic law civil servants and judges) already existed in pre-colonial Malayan states.[5] Islamic law did not play a predominant role, but it rivalled other forms of law. Emphasis lay on its public aspect, in the sense that it laid down the rights of the head of state (i.e. the Sultan) with a view to shaping state policy and relations between the Malayan aristocracy and the general populace. Most other parts of Malayan life, such as division of property, inheritance, political succession, territorial rights, marriage, family duties, gender relations, etc., were governed by *adat* rather than sharia (Hassan 1990: 43-44).

9.3   The institutionalisation of Islamic law and courts in colonial times

According to Horowitz and Peletz, the systematisation and institutionalisation of Islamic law was actually achieved during British colonial rule concurrently with the introduction of English law – an irony they have not failed to point out. In contrast, the adat did not benefit from such an instititional underpinning. The institutionalisation of Islamic law and Islamic courts of law in the colonial period as well as the formation of an Islamic-religious bureaucracy in each Malaysian state after World War II led to an institutional differentiation and segregation between Islam and adat (Peletz 2002: 60-61). At the same time, contacts with the rest of the Islamic world intensified. Closer ties between local religious schools and Islamic education in the Middle East (mainly in Mecca, Medina, Cairo, Jeddah and Damascus), coupled with the emergence of mostly foreign Muslim activities around the turn of the century in Malacca, Singapore and other parts of the Malay-Indonesian world, heightened Malay local elites' awareness of Islamic doctrines and developments in Egypt, Saudi Arabia

and other Islamic areas. Kelantan, for instance, imported qadis from Mecca at the beginning of the twentieth century, while Johor used a translated version of the Mecelle, the Ottoman Islamic civil code. It was also primarily in this period that the first Islamic offices (or predecessors thereof) were created, such as the mufti and qadis at the district level, and given both executive and judicial assignments. Additionally, this time not only saw a surge in the number of traditional schools (the pondoks), but also experienced the foundation of modern religious schools, the madrassas. These schools gave birth to a new generation of ulama, trained in fiqh (Islamic jurisprudence) and very keen on Islamic reform theories, including the desire to purge Islam of pre-Islamic traditions (Horowitz 1994 part 1: 233-293; Hassan 1990: 44-46; Peletz 2002: 25-63; Hooker 1984).

More precisely, the standardisation and institutionalisation of Islamic legal institutions took place between 1880 and 1910, the period when the British colonial powers consolidated their position by way of the residential system. Emphasis was placed on the development of an Islamic legal system that was concentrated on a limited number of matters. A first round of Islamic legislation was implemented between 1880 and 1920, granting restricted powers to Islamic religious bodies and qadi courts (Harding 2005: 305). This legislation was the first to render a number of religious misdemeanours punishable by law, such as deviationism, the spreading of false doctrines, the irregular attendance of mosque services, neglecting to fast during Ramadan, incest and adultery. A second wave of Islamic legislation was passed after World War II, partly under colonial rule and partly after independence. In each Malaysian state, a sort of omnibus movement emerged, aimed at the establishment of sharia courts (the chief qadi, the qadi and the Sharia Appeal Committee) and a religious council (the Majlis Agama Islam, fronted by a *mufti*), in addition to substantive rules regarding Islamic family law, religious misdemeanours and testimonies. Lastly, the *dakwah* movement in the 1970s and 1980s gave rise to a third flurry of Islamic legislatory activity. The states themselves passed new and separate Islamic laws in the 1980s and 1990s pertaining to family law, Islamic courts, evidence and procedure (see section 4.2).[6]

The British coloniser recognised the validity of Islamic law in the realm of personal and family law. Islamic courts were regularised as subordinate courts with limited powers in the domains of marriage, divorce, inheritance law and minor moral transgressions by Muslims (plus religious affairs such as mosques, *waqaf* and *zakat*). This is how the British systematised and institutionalised sharia law: through legislation and secular jurisprudence (the high court could shelf decisions by the qadi when it deemed them in violation of 'natural justice'). The development of Islamic law was primarily left to secular jurists and judges. It is unsurprising, therefore, that Horowitz (1994 part I: 254-257) refers to an 'Islamicisation of the law', rather than a 'juridicisation of Islam', and claims that this

phenomenon continued to run its course after independence. The secular, personal criticism voiced by British civil servants towards key symbols in Islam and Islamic jurisdiction did result in an ambivalent attitude, with the formal ratification of an Islamic legal system characterised by qadi courts and a recognition of the ulama as legal mediators, on the one hand, and the constraints imposed on the powers of the sharia courts, on the other (Peletz 2002: 25-63; Hassan 1990: 46-48).

9.4   Post-colonial governance of Islam: Continuities and ruptures

In view of the fact that Muslims constitute the majority of the population, and Islamisation is being vigorously enforced, Malaysia can indeed be described as an Islamic or Muslim country. (Baginda & Schier 2002: 75)

9.4.1   After independence: 1957-1983

9.4.1.1   The constitutional recognition of Islam and Islamic law: Continuing the colonial situation

Muslims make up the majority of the Malaysian population. As one of the so-called Asian tigers, Malaysia has evolved into one of the few Muslim countries with a sizeable middle class and a growing, although still precarious, civil society (Peletz 2002: 5; 2005: 240-273). Although the Constitution drawn up at independence in 1957 was inspired by the Western (British) liberal constitutional model, it also opts for what some authors have, for the Indian case, called a 'communitarian-liberal' democracy (Randeria 2006; Fenton 2003: 135-136), which not only provides for individual rights and safeguards, but also for legal pluralism and group-based quotas in education and public employment.

Harding stresses that the Constitution was drafted at a time when Islam still played a peripheral role and no one within the country had yet conceived of an Islamic state; the rise of Malay nationalism and relations between the three major ethnic groups were more pressing concerns at the time. The Constitution consolidated the position of Islamic law as it was during colonisation. The negotiating partners at the time of the Constitution's drafting wanted to preserve the status quo concerning the limited form of legal pluralism already practised in Malaysia:[7] it decrees Islam to be the state religion, but it does not accord any additional significance to this; lawyers and politicians have repeatedly underscored that this is an innocuous stipulation that only relates to the religious character of state ceremonies (in this regard, we can see a significant difference

from the Indian Constitution). The Malaysian Constitution also allows the states to issue a ban on proselytising among Muslims and give state support to Islamic institutions, including educational ones. Finally, it also grants states the power to draw up Islamic legislation in certain limited areas and to set up Islamic courts of law.

Malaysia has no provision that the sharia is an eminent or major source of law. On the contrary, article 160 of the Constitution, which includes a definition of 'law', does not refer to Islamic law at all. Constitutionally, Malaysian laws (both secular and Islamic[8]) cannot be reviewed in light of Islamic principles. Islamic law is subject to the supremacy of the Constitution and federal law. In theory, the supremacy of the Constitution means that native law, received law and religious legal practice are subject to the constitutionality test; they can be reviewed by constitutional principles, including the rights and freedom provisions. In this sense, Malaysian constitutional law is different from, for example, that of Pakistan or Egypt.[9]

Lastly, we can point to the constitutional recognition of legal pluralism. As we have seen, historical developments in Malaysia had led to the existence of three recognised systems of family law (and in a limited sense, also of penal and land law): a secular system for non-Muslims; an Islamic system for Muslims; and a particular customary system for the 'natives' of Sabah and Sarawak. Rather than being abandoned after independence, this legal pluralism was anchored into the Constitution, which stipulates that the legislative power over Islamic law and Malaysian customs is granted to state legislators. These powers primarily cover personal and family law and, to the extent that it is permitted by federal law, penal law. Aspects of public law pertaining to the application of Islamic law and indigenous customary law, such as the establishment, organisation and procedures of the sharia and indigenous courts, are also submitted to the exclusive powers of the member states.[10]

For non-Muslims, however, the practice of legal pluralism in the realm of personal and family law was curtailed by the 1976 Law Reform (Marriage and Divorce) Act, which was implemented in 1982. The LRA imposes a common frame of reference to non-Muslims with regard to marriage and divorce in West Malaysia; for non-Muslims, polygamy has not been allowed since (Aun 1999b: 173).[11]

In conclusion, although Malaysia can be said to be constitutionally 'secular' (in the sense that this only relates to the religious character of state ceremonies and that the Malaysian Constitution contains no stipulation giving superior status to Islamic law), the Islamic faith enjoys a privileged status both in law and policy, as is shown by the following provisions:

1. Islamic educational and other institutions are subsidised, and the state legislatures are allowed to enact religious Islamic laws over matters enumerated in the Constitution (to Muslims only, with respect to a

limited range of matters relating to marriage, inheritance and other personal laws) and to create sharia courts; Article 121a of the Constitution further stipulates that civil courts have no jurisdiction over matters falling within the jurisdiction of sharia courts.

2. The monarch and the sultans of each member state are declared the 'Heads of Islam'.

3. Privileges are accorded to the Islamic religion in public policy;[12] and the ulama of the religious departments and sharia court officials are appointed and paid by state governments (and have a strong influence over how Islam evolves in Malaysia).

In the realm of Islamic law, however, significant modernising and progressive reforms occurred between 1983 and 1994, both in terms of content and structure. These developments mark a sharp contrast with the more recent legislative trends in terms of apostasy and Islamic penal law of the late 1990s, which show a less rosy picture of developments within Islam and the enforcement of Islamic law on Muslims. Before discussing this point (see section 9.4.2), we will briefly describe the Islamic bureaucracy, institutionalised after World War II and operative in most Malaysian member states.

9.4.1.2   Islamic state bureaucracies

Each member state has an Islamic religious council, the Majlis Ugama Islam, authorised to advise the King or Sultan on all matters pertaining to the Islamic faith and Malayan customs, except for matters of Islamic law and those relating to the administration of justice. In matters of Islamic law, it is the *mufti*'s task to aid and advise the King or Sultan. In the federal territories, the *mufti* is also empowered to issue a *fatwa* on any unresolved or controversial point of Islamic law, on its own initiative or at the request of the king (articles 31, 33 and 34 of act 505, the 1993 Administration of Islamic Law Act). In the other states, this *fatwa* authority lies with the *majlis*, of which the *mufti* is part, or with a legal committee of the *majlis*, usually chaired by the *mufti*. When a *fatwa* is published in Malaysia's *Gazette*, it is binding and enforceable on all Muslim subjects and it is deemed irrevocable by the sharia courts for those matters covered by the *fatwa*. The *fatwas* are not binding for secular courts.

Each state also has a department for religious or Islamic affairs, Jabatan Agama Islam, charged with everyday administrative and religious matters. Appointments are made on the basis of its recommendations (members of the majlis, the mufti and the mufti delegation). This department is also responsible for the sharia courts and appointments of judges. Nonetheless, with the reforms – discussed in the next section – the sharia judicial apparatus was made independent of the religious authority structures of the state.

The department for religious or Islamic affairs sets out a number of

administrative formalities that have to be complied with in the case of a Muslim marriage, including a series of 'marriage classes' (Harding 2005: 320). The powers of the public prosecutor (i.e. enforcement division) within this department are very comprehensive.[13] In other words, they function as a sort of religious police.[14]

9.4.2   Islamic revivalism and the state response of modernising legal developments concerning Islamic law and courts: 1983-1994

The Malaysian Islamic revival movement, *dakwah*, of the 1970s and 1980s[15] sought to give Islam greater prominence in the public sphere and was considered by some to be a worldwide Islamic revival. This movement, reinforced by the electoral rivalry between the two Muslim political parties in Malaysia,[16] led to the Islamisation policies of the federal government that began in the early 1980s. Striking examples of this moderate, government-led Islamisation policy are the institutional restructuring of the Islamic judiciary and the religious bureaucracy and substantive reforms in Islamic family and criminal law (also including evidence and procedure laws).

9.4.2.1   The institutional reforms: Strengthening of the sharia courts

An important institutional aspect of the government's Islamisation policy concerns the reorganisation and upgrading of the Islamic judicial system. Although Islamic law is a responsibility of the states, the federal government has played a leading role in the reforms in this domain. The sharia courts were separated from the religious departments, a three-tier Islamic judicial structure was introduced (sharia subordinate courts, sharia high court and sharia court of appeal), and article 121 of the Constitution was amended in 1988 to deny the civil courts the power to speak about a matter that falls within the jurisdiction of a sharia court.[17] Henceforth, decisions of the sharia courts could no longer be subject to appeal in the civil courts. Although constitutional review (at least regarding the division of powers) remains possible in principle, we see that civil courts have taken a very cautious attitude ever since, even refusing to hear certain cases when they have involved non-Muslims. In several recent lawsuits, mostly concerning issues of conversion from Islam and apostasy, the federal high courts have declared themselves non-competent, claiming these cases fall within the jurisdiction of Islamic courts.[18] Nonetheless, core constitutional issues involving fundamental liberties are involved in these cases.

It is not entirely clear whether the 1988 amendment resulted in the eradication of *constitutional* review of Islamic law in the secular legal system. The question is whether constitutional review now belongs to the sharia legal system itself.[19]

Moreover, the reforms involved a significant upgrading and expansion of the Islamic judiciary, improving the infrastructure (adequate buildings and facilities) and increasing the number of better-trained staff and sharia judges. These improvements were intended to make the sharia legal apparatus more professional and efficient. Founded in 1983, the International Islamic University Malaysia (IIUM) provided an important educational dimension to these institutional reforms; later on, it also played a key role in terms of the further reform of the sharia system. This university now has a law programme that combines secular and Islamic legal courses and offers academic specialisations in Islamic law (Awal 2004).

Other reforms in the sharia court system since the 1980s involve the admission of lawyers. As a result, we see that the appeal to lawyers (sharia counsels) in Islamic lawsuits is becoming more standard. Precedents are becoming increasingly important, and more and more lawsuits are being published (in *Jurnul Hukum*, *Malayan Law Journal* and *Kanun*).[20]

These reforms have brought significant gradual changes to the Islamic judicial system. Court sessions are marked by a greater formality; in contrast to the more mediating and moralising style of the local qadi, judges have become more inquisitorial in their adjudicating (or rather, more passive when lawyers are involved in the case). Greater emphasis now lies on evidence, especially in written form (Peletz 2002: 297n16).

9.4.2.2 Substantive reforms in Malaysian Islamic family law

In most Islamic countries, the status of women under Islamic family law legislation has significantly improved, including Egypt (changes took place in 2000) and Morocco (changes took in place in 2003).[21] In a recent study of twelve countries (Otto, Dekker & Van Soest-Zuurdeeg 2006), Otto speaks of 'a gradual trend towards liberalisation'. Even in Malaysia, Islamic family law legislation has undergone significant changes in its different member states since the 1980s. Before the individual states drafted a new separate Islamic Family Law Act in the 1980s and 1990s, each state had known its own version of the Administration of Muslim Law Enactment. This involved a kind of omnibus legislation, which controlled all aspects of Islamic law, overseeing mosques, religious councils, *muftis* and religious crimes to family law. The family law provisions, however, were limited to the organisation and the powers of the sharia courts. Their only substantial provision was that *hukum syarak* (equivalent to the traditional Islamic law) should be applied (Siraj 1994: 565). On the other hand, the new Islamic Family Law Enactments implied a codification of Islamic law in which a partial, more formal introduction of the classical *fiqh* took place. In the drafting process of the Islamic Family Law Enactments, the state legislators opted for one of the following two models, possibly with minor variations: the Kelantan Islamic Family Law Enactment of 1983 and the Islamic Family Law (Federal Territories) Act of 1984. The

Kelantan model is more conservative, loyal to the traditional Shafi'i school of law, while the federal model, a legislative model that was elaborated for the federal territories under the auspices of the federal government, was more inspired by the Islamic reforms in countries such as Pakistan and India and by other schools of law such as the Hanafi and Maliki school, which are not widely endorsed in Malaysia. This model was preferred by the federal government and a majority of member states (Jones: 48-55; Ibrahim 1997: 9-11; Horowitz 1994 part I: 264, 268-269, 273). It was also inclined towards choosing progressive legal rules from other schools or Islamic statutes from other countries, such as the extraordinary exertions to modernise Islamic courts and rules of procedure and evidence, and the clear aversion to irresponsible repudiations, unequal rights of divorce, polygamy and arbitrariness in the judicial procedure (Horowitz 1994 part II: 571). The 1984 law, observed in most of Malaysia, seeks a better and more uniform protection of married Muslim women's rights in terms of the distribution of marital property, their rights to initiate divorce and their rights after divorce.

Moreover, many of the institutional and progressive reforms of Islamic family law have been moving in a similar direction as their secular equivalents. In fact, the Malaysian Islamic law statutes are often based upon existing secular statutes and differ only if Islamic doctrine explicitly holds opposing views.[22] These developments emerged in a top-down way and were legitimised by the use of Islamic legal methods, especially *ijtihad* (free interpretation or pragmatic interpretation of Islamic texts), *takhayyur* (free selection between rules and opinions of different Islamic schools of law) and *talfiq* (the combining of points of view of different schools of law and lawyers in a single legal rule). Hence, as Horowitz (1994) brilliantly described, this process of change has produced paradoxical and hybrid results: it has turned out to be more Islamic and more Western at the same time. While the desire for Islamic authenticity was very strong, the secular legal system remained an object of respect for the reformers.[23]

Nonetheless, regressive reforms similarly took place in 1994. This was caused by the influence of the conservative views of the Saudi-based Hanbali school, as well as by the growing political success of the PAS opposition party in Malaysia (Otto 2007: 145). With regard to polygamy, for instance, amendments in 1994 eased restrictions so that Muslim men could register polygamous marriages as long as they paid a fine. Moreover, the condition that the subsequent marriage should not lower the standard of living enjoyed by the existing wife and children was abandoned (Anwar 2001: 227-253; Horowitz 1994 part I: 285-289; Shah 2000: 65-69; Kamaruddin 2001: 7, 108-109).[24] Also amended in 1994 was the provision that 'no pronouncement of *talaq* shall be registered unless the court has made a final order for the custody and maintenance of the dependent children, for the maintenance and accommodation of the divorced wife

and for the payment of *mut'ah* to her'.[25] Henceforth, a final judgment is sufficient, and the judge may even confirm an extrajudicial *talaq* pronounced by the husband. As such, the 1994 legislative amendment effectively turns back the clock by undoing the legislator's original intent of banning extrajudicial unilaterally pronounced *talaq* divorces from Muslim family life. Women's organisations in Malaysia have strongly criticised these legislative amendments. They argue few laws exist that are violated with such regularity and impunity as the divorce provisions of the Islamic Family Law Acts (Kamali 2000: 86-89).[26]

Moreover, although it is true that the content of Islamic family law in Malaysia is gradually moving in the same direction as secular family law, striking differences continue to exist. Examples abound: the role of the *wali* in the marriage ceremony, who in a number of states still enjoys the legal authority to marry a virgin without her consent; the limited alimony payments after divorce (even if it is more generous than it was in the past); the different rules concerning parental authority.[27] The preservation of such conservative and patriarchal rules causes the most serious difficulties when both legal systems come into collision as a result of one of the spouses changing religion, and hence also legal systems. In this context, it should be noted that case law only rarely invokes the mediating role the law (the Constitution and human rights laws, in particular) should exercise for the solution of such conflicts.[28] Civil and other non-sharia courts take up no active role in this respect; in recent years, we see that they have also adopted opinions and attitudes inclined to favour Islamic laws and a more important role for Islamic courts (see section 9.4.3).

Additionally, the protection of legal pluralism (by inserting an exception to the anti-discrimination provision) inevitably means that religious or native personal laws can be shielded from invalidation in case of gender discrimination. The Malaysian constitutional provisions concerning equality before the law and non-discrimination on grounds of religion, gender, race, etc., explicitly exclude their own application upon the legislation concerning personal laws (article 8 (5) of the Constitution).[29] Therefore, it is possible that the Federal Constitution fails to protect women against a legal system and social structures that intrinsically jeopardise gender equality.[30]

9.4.3   Fundamental domestic dilemmas concerning the relationship between the state and the Islamic faith: 1994 to the present

9.4.3.1   The increasingly prominent place of Islam in the public and legal domain

In contrast to the past, the last decade has seen an increasingly heated public and political debate centring around the question of whether or not

Malaysia is an Islamic state. Several crucial UMNO politicians, even some moderates, have declared that Malaysia already is an Islamic state, championing the concept of Islam Hadhari (i.e. 'civilisational Islam'). Islam Hadhari has been described as a progressive and modern form of Islam, but many commentators have contended that its use shows the government's continuing desire to institutionalise Islam and impose Islamic norms on the public sphere.[31]

9.4.3.2 Recent alarming developments in terms of apostasy and righteous Islamic sentences

Sharia courts in Malaysia can rule on religious crimes and misdemeanours by Muslims, insofar as this is authorised by federal law.[32] The legislative power of the states concerning Islamic penal law is limited by the Muslim Courts (Criminal Jurisdiction) Act of 1965: the limit is three years' detention, six lashes, a fine of 5,000 ringgit or a combination thereof. Therefore, serious criminal transgressions sanctioned by hudud or qisas Islamic punishments are not under the jurisdiction of the Islamic courts. Sharia penal law in Malaysia does, however, exert ample control on the public moral behaviour of Muslims. For example, some member states have penal provisions for lesbianism, sodomy, premarital sex, khalwat ('close proximity'), pimping, incest and prostitution as well as apostasy laws.[33]

The sharia penal enactments contain radical provisions that go quite far in limiting the constitutional freedoms of religion and expression, though they are not atypical for Asia. Many penal provisions already existed previously, but in recent years they have been more actively enforced.[34] Under the legislature of the Islamic party PAS, the states of Kelantan and Terangganu have even adopted hudud laws (the Sharia Criminal Code (II) Enactment of 25 November 1993 and the Sharia Criminal Offences (hudud and oisas) Bill of 8 July 2002). Hudud legislation of the Kelantan state penalises apostasy in both action and words with death, if the accused does not show remorse within a certain period of time. If remorse is shown, however, the accused will nevertheless be punished with a prison sentence of, at most, five years. These hudud acts also introduce other traditional Islamic punishments, such as the amputation of hands for theft (albeit framed with fifteen exceptions), crucifixion for robbery and stoning for adultery, for which the traditional Islamic rules of evidence apply. The hudud laws of Kelantan and Terengganu have not, however, been implemented as of yet (Hussain 1999: 121, 132),[35] and a lawsuit is pending concerning the constitutionality of this legislation in the federal court.[36]

9.4.3.3 The push for Islamic supremacy within the judicial arena

Recent years have seen civil higher courts manifesting 'judicial opinions which evidently slant towards favouring Islamic laws and an aggrandised

role of Islam in the public arena' (Ling-Chien Neo 2006: 110-111).[37] In particular, different cases before the common (civil) federal courts – concerning religious freedom, conversions from Islam, and apostasy – have revealed some serious legal and political problems and tensions in the Malaysian conception of the relation between Islam and democratic constitutionalism.[38] The social and legal problems engendered by a Malay leaving the Muslim community should be considered a crucial criticism of the system of separate personal laws for Muslims.[39]

9.5   Concluding observations

Is 'the' sharia compatible with 'the' rule of law? In order to answer this perhaps too generally formulated question, we need to contextualise. Answering this question with a plain 'no' misses out on a vital part of the real issue, overlooking the complexity and diversity of Islamic religion and Islamic legal practices.

The important reforms of Malaysian Islamic family law in the 1980s and early 1990s have shown that interesting and creative contextual institutional and legal ways can be found for the interaction, articulation and compromise between religion and state and between legal pluralism (involving the accommodation of Islamic rules and courts) and equality, for gender and otherwise. Nevertheless, the subsequent negative developments in the Malaysian Islamic legal field have also shown that political compromises have to be principled: they should be constitutional (with respect for human rights, especially the freedom of religion) and democratic (in the broadest sense, which means also giving space to the voices of minorities and vulnerable minorities within minorities such as women). A democratic constitutional state has the minimal duty to protect the right of dissidents to leave their religion, and so also 'their own courts'. In addition, the strong establishment of a specific religion by the state (through massive state interference and control of established religions, including the checking of the standard sermon and the monitoring of other activities in mosques) can be seen as incompatible with the minimal interpretation of democratic constitutionalism (Bader 2003: 265-294).[40] Such religious penal provisions cause much discussion and polemics in Malaysia among Muslims with regard to the interpretation of their religious freedom (in particular, concerning their defence against centralised state control and intervention), the freedom of opinion and expression and the appropriate relationship between the state and religion. The constitutional and Islamic validity of such 'paternalistic' and 'authoritarian' legislation is strongly criticised not only by non-Muslims, but also by Muslim intellectuals, academics and action groups, such as Sisters in Islam (SIS). Moreover, the drip-feeding of such authoritarian elements

into Islamic penal statutes cannot be considered typically Islamic; it equally characterises the realm of secular law in Malaysia (e.g. sodomy prohibition, Internal Security Act). Consequently, we are not talking about the introduction of Islamic medieval intransigence but about modern authoritarian developments. Nonetheless, the Malaysian case shows us that the politicisation of Islam in the last 30 years and the increasingly prominent place of Islam in the public and legal domain reveal the dangers of institutionalisation. This might lead to political authorities becoming the final arbiter of personal matters such as religion, ultimately resulting in the curtailment of individual rights.

The modifications in the Islamic law field described above were carried out in a legal-technical manner recognisable to the West: as it happens, by means of a formal and systematic elaboration of legislation, based on the democratic consent of an elected parliament. Moreover, control mechanisms, such as independent judiciaries, exist. In principle, civil courts can authorise judicial review even in the case of the jurisprudence of the sharia courts, although this has not been clear-cut since the constitutional reform of 1988.

The Malaysian model shows that moderate, progressive pragmatic solutions to the conflict between the Islamic law and constitutionalism are not unthinkable, even when they clearly have not yet been achieved on a number of points. The very thin line that exists between the accommodation and imposition of differences makes judicial review and the mediating role of independent courts so important.

The Constitution and judicial structure certainly offer a possibility to this end, although improvements can be made here as well. The most serious problem seems to be that the courts seized by Muslim dissidents do not show any sensitivity towards the rule of law, nor do they make use of constitutional review; or if they do, they apply it restrictively. They are even ruling against the core of a constitutional state upholding the rule of law, where the right to leave one's religion is a necessary and minimum condition. Both the Islamic and civil judges are not showing an active commitment to the Constitution and international human rights.[41] From our analysis of case law (Meerschaut 2006: 293-297), it appears that the Malaysian courts are not, in fact, actually reviewing any state law provisions that conflict with equality or other fundamental rights enshrined in the Constitution. And when a review is carried out, the courts generally interpret the fundamental rights and freedoms very narrowly. Harding (2002: 44-45) strikingly describes the syncretic legal system of Malaysia as an institutionally imperfect system. Not because it is a pluralistic legal system in which religious and other law is recognised, but because the rule of law is seen as a competitive value system rather than as a basic condition.

On the brighter side, positive protests have been coming from civil society for quite some time now. Recently, the sharia high court of Penang

permitted a Muslim convert to reconvert to Buddhism, her original religion, for the very first time.[42] Now, the question has arisen whether this was permitted on the constitutional basis of religious freedom and if it should also be permitted for Malay Muslims. At this point, however, little is known about how the Islamic judicial apparatus' structural reforms – which aspired to improve the qualifications and status of the sharia magistrates – have impacted the actual case law of these sharia courts.

Notes

1   ECHR, 13 February 2003, 'Refah Partisi (the Welfare Party) and Others v. Turkey', par. 123. In another article, we have examined how the ECHR approaches the issue of legal pluralism and Islam and contrasted it with the Malaysian approach (Meerschaut & Gutwirth 2008: 431-465). In the Dahlab case, the court upheld a similar line of reasoning with regard to wearing of the Islamic headscarf: 'It [...] appears difficult to reconcile the wearing of an Islamic headscarf with the message of tolerance, respect for others and above all, equality and non-discrimination [...]': ECHR, 15 February 2001, 'Dahlab v. Switzerland', par. 111, p. 13 (decision of inadmissibility).

2   This should also be read in light of the fact that reformers wished to put an end to the Islamic courts' tendency of prioritising responsibilities at the expense of rights and rules of evidence and procedure (Peletz 2002: 109n13; referring to personal communication with Horowitz.

3   According to Harding (1996: 216), this system is very efficient.

4   A number of legal codes were drawn up in between the fifteenth and nineteenth centuries: first in Malacca (e.g. the Undang-Undang Melaka between 1424 and 1458), to be followed later by other states (such as Pahang, Kedah, Johor and Perak).

5   There was already a *mufti* appointed by the Sultan (Lee & Ackerman 1997: 33). Peletz believes Islamic civil servants – the ulama (Islamic scholars) and the *mufti* – only emerged during colonial rule (and quite late at that, in some states only after World War II). Similarly, there is no consensus about when the qadis (Islamic judges) actually emerged. Peletz (2002: 30-32) contends that various parts of Peninsular Malaysia already had a 'royal qadi', appointed by the local head of state, the Sultan. Abdullah Hassan believes there are signs pointing to the appointment of a *mufti* and *hakim* (i.e. judge) for the Kelantan state as far back as 1830. The *mufti* also adjudicated disputes in the sharia court of law, assisted in this task by the qadi. Sharifah Hassan writes that from the seventeenth century onwards, when the ruling classes gradually became more conscious of Islamic ideas on sovereignty and policy, the Sultan started to appoint legal counsellors and mosque officials in his court (i.e. qadi and imam), and he granted them the authority to handle religious matters by way of a delegation of power (*tauliah*) (Hassan 1990: 43). Shamsul (2005: 164) reports that in the pre-colonial Malayan world, the Sultan was dependent on his religious counsellors, *mufti*, for the interpretation of Islamic matters. He states that it was precisely those colonial religious administrative reforms that constrained the autonomy and jurisdiction of the qadi, in striking contrast with the pre-colonial period of Malay sultanates. See also Harding (2005: 303).

6   On the history of Islamic law in Malaysia, see Hassan and Cederroth (1997: 28-37); Peletz (2002: chapter 1).

7   This remained the orthodox view until recently (see section 4.3), having been affirmed in the judgment of the supreme court in the case of 'Che Omar Bin Che Soh v. PP' (1988): article 3 of the Federal Constitution never aimed for an enlarged role for Islam in public law. See also Harding (2005: 306-307).

8   Some Islamic enactments stipulate, however, that the interpretation of those laws can be reviewed to adhere to *hukum syariah* ('Islamic principles'). For example, Section 245 (1) of Sharia Court Civil Procedure 1999 (Selangor) stipulates that: 'Any provisions or interpretation of provisions under this enactment that are inconsistent with Islamic Law shall, to the extent of the inconsistency, be void.'

9   To illustrate, article 2 of the Egyptian Constitution stipulates that the principles of Islamic origin will be the major source of legislation. In this regard, it should be noted that such a stipulation does not necessarily trigger conservative or reactionary legal developments (space constrictions prevent further elaboration on this issue).

10   See article 74, list II ('State list') and list IIA ('Supplement to the State list for the states of Sabah and Sarawak'), of the 9th schedule of the Constitution.

11   Courts in Sabah, Sarawak and Hong Kong would still apply Chinese customs (Harding 2001: 207).

12   Examples include: the existence of different allocation ratios for mosques and non-Muslim places of worship; legislative lists of words and expressions forbidden for non-Muslim use; allegedly less burial ground granted to non-Muslims.

13   Ling-Chien Neo (2006: 108) remarks that in recent years, Islamic laws seeking to regulate the activities of Muslims, including their clothing, have been much more actively enforced by religious department officers. She also refers to a 2005 sharia court judgment in which two Muslims were convicted for drinking alcohol. According to her, this was the first known conviction for alcohol consumption in Malaysia.

14   For example, these officials are entitled to arrest and prosecute Muslims for purchasing alcohol, not attending Friday prayers, eating and selling food during Ramadan, building mosques without state approval, teaching Islam without a certificate, issuing a *fatwa* without the consent of competent authorities, the refusal to pay Islamic tax (*zakat*), conversion to Islam without using the appropriate channels, apostasy, and various sexual offences including *zina* (adultery), *khalwat* (close proximity), sodomy, homosexuality, lesbianism and intimacy between a couple formally separated. See Lee and Ackerman (1997: 38-39); Harding (2005: 306-307).

15   The important influence exerted by Malaysia's economic progress in creating a more Islamicised Malay middle class has to be mentioned here, as well as the government-led positive action policies for Malays, i.e. the New Economy Policy (NEP) that implemented special economic privileges for Malays and the New Education Policy (NEDP) that granted educational privileges.

16   The two parties are the UMNO, dedicated to protect the Malay identity and interests, and the PAS, a party that broke away from UMNO in order to give religion a greater role in shaping the nation. The PAS calls for an 'Islamic state' governed by 'Islamic principles'.

17   This amendment involved adoption of article 121 (1a): 'The [high courts] shall have no jurisdiction with respect to any matter within the jurisdiction of the Syariah Courts.'

18 Harding does not believe the sharia courts are likely to become a completely separate judicial system through this amendment. The amendment would only remove any doubts about the inability of the ordinary courts to revoke a decision by the sharia court (Harding 1996: 137; see also Neoh 2008: 9; Ling-Chien Neo 2006: 100-101).

19 'Such a case would indeed be an interesting test of the nature and extent, if any, of democratic sensitivity and impulses within the system of *shari'a* justice in contemporary Malaysia' (Othman 1998: 13).

20 Since 2005, a new quarterly journal has appeared. *Laporan Syariah* endeavours to publish articles and other relevant materials reporting on sharia cases from Malaysia and other Islamic jurisdictions from around the world

21 See also http://www.law.emory.edu/ifl. Under direction of Abdullahi A. An-Na'im, Professor of Law at Emory University in Atlanta, Georgia, this website provides a global 'mapping' survey of regional socio-cultural profiles as well as country-specific legal and institutional aspects of the theory and practice of Islamic family law.

22 For example, in the case of the sanctioning of polygamy for Muslim men (declared illegal for Hindu and Buddhist men); the dilemma of reconciling gender equality with recognition of cultural difference has been dealt with by procedural and conditional devices.

23 The direction taken by the reforms can be understood in light of various factors, including: the reformers' background (representing both the common law and the Islamic law tradition, a framework of lawyers familiar with both legal traditions), the power of the secular legal system running in parallel, the reformers' aim to create an authentic and comparable legal system and the fact that they seized the opportunity to borrow from a variety of supposedly legitimate sources of rules and institutions (Horowitz 1994 part II: 569).

24 Since 1984, polygamy has had to comply with five conditions: the proposed marriage must be just and necessary; the applicant must have the means to support all his wives and dependants; the applicant must practise equal treatment of all his wives; the proposed marriage must not cause the existing wife *darar syarie* (i.e. what would be recognised by Muslim law as a form of religious, life, bodily, mental, moral or property-related harm affecting a wife); the proposed marriage must not directly or indirectly lower the standard of living of the existing wife and dependants.

25 In the Kelantan model since the law reforms, extrajudicial acts with legal effects, such as the repudiation of marriage, should in principle also take place before the court.

26 A 1996 investigation by the Women Crisis Centre in Penang allegedly showed that the number of men pronouncing extrajudicial *talaq* is more than three times the number of men who contact the court. Ibrahim (1997: 234-241) refers to two other cases in which the Sharia Appeal Board and the Sharia Court of Appeals of the federal territories respectively annulled affirmation by the sharia judge of an extrajudicial *talaq* and imposed a new trial: 'Rojmah v. Mohsin' (1991) and 'Razimah Haneem v. Yusuf bin Hasbullah' (1993). In both cases, the appeal agencies judged that the affirmation of an extrajudicial *talaq* could not be based solely on the statement of the spouse without corroboration by witnesses and a decision concerning the accordance with *hukum syarak* requirements. In the latter case, the Sharia Court of Appeals also stressed the need for adherence to the obligatory procedure as dictated by law. The case law of the appeal agencies consequently

requires proof by two witnesses and a thorough investigation of the accordance with the requirements of *hukum syarak* if an extrajudicial *talaq* can be confirmed by the sharia court. Therefore, the spouse has to exercise his right to pronounce *talaq* with circumspection. In contrast to traditional Sunni Islamic law, this case law imposes additional formalities on pronouncing extrajudicial *talaq*.

27   In secular family law, the Guardianship of Infants Act was modified in 1999 so that both parents now exercise the parental authority together; Islamic legislation, however, grants parental authority to the father and also stipulates that for the conversion of a child to Islam, the consent of the 'guardian' is necessary. These divergent rules have led to highly contradictory rulings by the civil courts, which have judged that a converted father could convert his children without the consent or knowledge of the mother, as well as judged the exact opposite.

28   An example is the absence of review regarding the legal possibility for coerced marriages in the Kelantan model. The problems of mixed marriages regarding the custody, choice of religion and education of children show the same stance of the courts: see High Court Sabah & Sarawak, 11 December 2002, 'Chang Ah Mee v. Jabatan Hal Ehwal Agama Islam', *Current Law Journal* (2003): 458; High Court Malaya, Kuala Lumpur, 11 September 2003, 'Shamala Sathiyaseelan v. Jeyaganesh C. Mogarajah', *Current Law Journal* 2004 (1):505; High Court Malaya, Kuala Lumpur 13 April 2004, 'Shamal Sathiyaseelan v. Jeyaganesh C Mogarajah', *Current Law Journal* 2004 (2): 416; High Court Malaya, Kuala Lumpur, 20 July 2004, 'Shamal Sathiyaseelan v. Jeyaganesh C. Mogarajah', *Current Law Journal* 2004 (3): 516. See also Horowitz (1994 part II: 556, 563-566); Kamaruddin (2001: 346-349, 352).

29   On 1 August 2001, a constitutional amendment added the word 'gender' to the antidiscrimination list of clause 2 of article 8. Previously, the protection against gender discrimination guaranteed in the general clause 1 of article 8 was not upheld in clause 2. Before the addition, the latter clause included only religion, race, descent and place of birth.

30   On Zambia, see also Himonga (2010).

31   It also shows UMNO politicians' desire to counter and undercut the Islamic state political programme of the PAS party (Ling-Chien Neo 2006: 106, n70; Meerschaut 2006: Chapter 2, 2.3.1.2). Neoh (2008: 3) also refers to a Mahathir declaration in Parliament in 2002: 'Malaysia is not a moderate Islamic state but an Islamic fundamentalist state as its policy is to abide by the fundamental teachings of Islam [...] Malaysia [is] not only an Islamic state as acknowledged by other countries but also a model Islamic state'. Badawi's parliamentary reply in 2007 said that: 'Malaysia is an Islamic state which is administered based on the principles of parliamentary democracy guided by the highest law of the land – the Federal Constitution. The Islamic principles that I mean can be seen from [the concept of] Islam Hadhari that I have introduced.'

32   Although criminal law is a federal matter (ninth schedule of the Constitution, List I, Point 4), the authority to stipulate and punish criminal offences against the prescriptions of the religion has been granted to the states in the state list of the same ninth schedule (List II, Point 1). The authority of the state legislature in the field of religious criminal offences can also not be related to matters set out in the Federal List ('...except in regard to matters included in the Federal List').

33   Under article 9 of the Sharia Criminal Offences Act of the Federal Territories (this provision also exists in the Sharia Criminal Offences Laws of other states), each person who acts 'in contempt of religious authority or defies, disobeys or disputes

the orders or directions of the *Yang di-Pertuan Agong* as Head of the Islamic faith, the *Majlis* or the *Mufti*, expressed or given by way of *fatwa*', is guilty of an offence punishable with a maximum 3,000-ringgit fine or a maximum two-year prison sentence. Martinez (2001: 482-483) indicates that for the penalising of such disobedience, no support can be found in textual sources or historical practice of the Islamic religion. Because such legislation exists, some Muslims who were interviewed by her describe themselves as second-rank citizens who know no freedom. Several action groups, lawyers and academics, such as Norani Othman and Patricia Martinez, both Muslim women and educated in Islamic law, raise serious questions about the constitutionality and Islamic validity of this legislation.

34   In her article, Martinez (2001: 482) writes that for at least three years, the federal government had been checking whether the standard sermon it prescribes was given and keeping an equally close eye on other activities in the mosque. For example, in October 2001, fifteen Muslims were prosecuted in the sharia court because they neglected a Majlis command concerning Friday prayers. In 2006, Ling-Chien Neo (2006: 106-108) also noted the increase of state-sanctioned religious policing in states controlled by both the PAS and the alliance comprising governing parties at the federal level. Furthermore, she observes that Islamic laws seeking to regulate the activities of Muslims as well as their clothing have been more actively enforced in recent years. She refers to a 2005 case in which Muslims were convicted for alcohol consumption, probably for the first time in Malaysia.

35   See also in the press S. Oorjitham, 'A matter of personal faith? Concern grows over an "Islamising" trend', *Asiaweek* 26 (40): 32-33 (13 October 2000). On the Terengganu *hudud* act, see 'Q & A on the Hudus and Qisas Enactment', *Aliran Monthly* 6 (2002).

36   These *hudud* laws have judicially been challenged as unconstitutional on the grounds that individual states have no legislative power to enact such laws, seeing as they prescribe *hudud* punishments for theft, robbery, criminal conspiracy, rape and manslaughter, which are actions punishable under federal law (Ling-Chien Neo 2006: 106).

37   Ling-Chien Neo also refers to a 1999 Seremban High Court case (the Meor Atiqulrahman case) in which the view was expressed that article 3 imposed an obligation on the government to promote Islam and that the role of Islam was not limited to only 'rituals' and 'ceremonies'.

38   The Malaysian courts held that the issue of conversion from Islam belongs under the jurisdiction of the sharia court. Some judgments even hold that article 11 of the Constitution does not protect religious conversions from Islam as a matter of personal choice; see 'Daud bin Mamat & Ors v. Majlis Agama Islam & Anor', *Malayian Law Journal* 2001 (2): 390; see also Lina Joy case, *Malayian Law Journal* 2006 (2): 144. In this case, such a restrictive reading of religious profession has been judicially linked with article 160 of the Constitution: 'as Malay', a person 'remains in the Islamic faith until her dying days'. Article 160 defines a Malay as a person who professes the Muslim religion, habitually speaks the Malay language and conforms to Malay customs. However, article 160 is merely an interpretative clause. The Lina Joy case was tried in the federal court for months; the court said that the time it took before passing sentence in the appeal of Lina Joy, who had converted from Islam to Christianity, was due to the fact that the issue is 'sensitive and needs careful examination'. On 31 May 2007, the federal court ruled in a 2-1 majority decision that only the sharia court has the power to determine whether a person is still a Muslim. See *New Straits Times* 31 May 2007. These cases leave

the applicants without a legal remedy, given the fact that in many states, apostasy law provisions exist. Nevertheless, in the Shamala case, in which a non-Muslim mother sought a declaration that her husband's conversion of her two children to Islam without her consent was void, the High Court held that the lack of legal remedy 'would not make the jurisdiction exercisable by the civil court' and that 'it was for the parliament to provide the remedy' (Ling-Chien Neo 2006: 115).

39 See also the case of Kamariah bte Ali Iwn Kerajaan Kelantan, *Malaysian Law Journal* (2002) 3: 657, a case concerning apostasy, in which the Court of Appeals stated that: 'Article 11 of the Federal Constitution (in relation to Islam) cannot be interpreted so widely as to revoke all legislation requiring a person of the Muslim faith to perform a requirement under Islam or prohibit him or her from committing an act forbidden by Islam or that prescribes a system of committing an act related to Islam. This was because the standing of Islam in the Federal Constitution was different from that of other religions. Firstly, only the Islamic faith is mentioned by name in the Federal Constitution as the religion of the Federation. Secondly, the Constitution itself empowers State Legislative Bodies (for states) to codify Islamic Law in matters mentioned in List II, State List, Schedule Nine of the Federal Constitution ('List II').' See also 'Soon Singh Bikar Singh v. Pertubuhan Kebajikan Islam Malaysia (PERKIM) Kedah & Anor', federal court, Kuala Lumpur, 5 March 1999, *Current Law Journal* (1999) 2: 5. Since this case, the secular courts take the position that the authority to deal with conversion from Islam belongs to the sharia courts (on the grounds of article 121(a) of the Constitution); see also 'Daud Mamat & Ors. v. Majlis Agama Islam/Adat & Anor', *Current Law Journal* (2001) 2:161-172: '[...] Returning to the current facts, as the plaintiffs are yet to be found guilty of the second charges of apostasy [...] for all intents and purposes I have to conclude that they still are Muslims. [...] Indisputably [...] then by virtue of Article 121 (1A) of the Federal Constitution, my powers are curtailed. That being so, the plaintiffs being legally Muslims will still remain within the jurisdiction of the Syariah Court, and thus outside my jurisdictional purview.The act of exiting from a religion is not a religion, and hence could not be equated with the right to "profess and practice" their religion. To seriously accept that exiting from a religion may be equated to the latter two interpretations would stretch the scope of Article 11(1) to ridiculous heights and rebel against the canon of construction. On that score, I reject the contention of the plaintiffs that their rights pursuant to Article 11 (1) had been infringed.' See also 'Lina Joy v. Majlis Agama Islam Wilajah Persekutuan & Anor'. High Court, *Current Law Journal* (2004): 6: 242-272. In this last case, the court describes Malaysia as a hybrid between a secular and theocratic state. The High Court decision in the case of Lina Joy dated from 18 April 2001 and was only reported in 2004. Ling-Chien Neo (2006: 113) mentions how although previously there was no formal procedure by which a Muslim could renounce or change his or her religion, it was possible for a Muslim to be freed from the legal obligations of Islam and exempted from the jurisdiction of the Muslim courts.

40 Bader (2003: 269) defines a 'strong establishment' as the constitutional or legal establishment of a monopolistic religion, which always implies an administrative and political monism aimed at religious national monism. He refers to Greece, Serbia and Israel as examples. According to Bader, this strong establishment is incompatible with the minimally required institutional differentiation and with the most minimalist interpretations of religious freedoms and equality.

41 This statement is affirmed by Neoh's (2008: 12-13) analysis of the majority

judgment by the federal court in the Lina Joy case. He notes that the focus of the majority judgment was 'not on public order arguments contemplating the trade-off between rights and social responsibilities characteristic of typical constitutional rights adjudication within the common law system; the chief trust of his judgment rested on the imperative to protect Islam' [...] 'this decision in effect conditions the act of leaving the Islamic faith to another regulatory order other than constitutional and common law norms'.

42   See *The China Post* 9 May 2008. We can compare this judgment with a Pahang Sharia Court judgment of 2005, in which the court rejected the application by a Muslim convert to revert to his original religion (Ling-Chien Neo 2006: 112, n105).

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Chapter 10
Angare, the 'burning embers' of Muslim political resistance: Colonial and post-colonial regulation of Islam in Britain

10.1   Introduction   *Maleiha Malik*

Angare, the Urdu word for 'burning embers', was a collection of short stories published in 1932 in Lucknow, British India. Written in Urdu, that the publication used fiction, strong language and sexual imagery to criticise Islam's prophets and sacred texts. In 1988, 56 years later, Rushdie's *The Satanic Verses* triggered controversy, violent protest and fatwas, and Muslims called for the banning of the book. The resulting book burning that took place in British towns set the stage for popular perceptions about Islam and Muslims, especially for liberal defenders of free speech. Angare also led to widespread popular protests by Muslims, as well as fatwas issued by religious leaders. Within just one year of publication, most copies of Angare were destroyed by the British colonial authorities. Only five copies were preserved, one of which was recently made available to the public at the British Library.

10.2   Angare and the colonial governance of Muslim speech

It is significant that Angare was written in Urdu, then already the primary language of communication among literate Muslims, by a group of young Indians who were members of the Progressive Writers' Movement, which was set up in India in the late 1930s. Some stories in Angare were an internal critique of patriarchal practices within the Muslim community, while others were critical of colonial rule. The fact that this critique was written in Urdu meant that it had a potentially vast audience as compared with publications in English. The ideas, language and images in the short stories, especially their use of sexual images, offended the majority of Muslims. The publication of Angare was met by widespread popular protests as well as fatwas issued by the Islamic clergy. The British used the 1898 Code of Criminal Procedure to confiscate and destroy copies of Angare, claiming that it was a threat to public order and amounted to sedition. More specifically, on 15 March 1933, the British banned the book using section 295 of the Indian Penal Code, which reads:

> Whoever with deliberate and malicious intention of outraging the religious feelings of any class of His Majesty's subjects by words, either spoken or written, or by visible representations insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with a fine, or both.

Before discussing the political and legal issues at stake, it is important to examine Angare's literary content and style. The writers of this anthology of short stories consisted of young men and one young woman. The content of the stories focused on the way in which social and religious practices are based on ignorance; the inequalities of Indian society; the shameful acquiescence of Indians to colonial rule; and the oppressive lives of Muslim women, who were subject to Muslim male domination as a result of religious dogma. Angare was both a critique of colonial rule and of traditional religious practices, penned by a group of writers who were themselves Indians and some of whom were even Muslim. Not only did the short stories question traditional ideas, they were also written in a literary form that challenged established norms of Urdu literature. As Shabana Mahmud has noted:

> Angare came as an act of defiance against all traditional norms. It deliberately jettisoned much of the traditional language of Urdu literature and introduced new styles. Drawing inspiration from the writings of James Joyce, Virgina Woolf and D. H. Lawrence, and in some cases Marxist writings, the young writers experimented with new techniques in writing which aimed at a more direct impact in its stark and unvarnished portrayal of human existence. (Mahmud 1996: 447-467)

It is important to emphasise that the stories used extreme sexual imagery in relation to sacred Islamic religious figures and the Koran. This transgressed, in the most extreme form, the boundaries of what would have been considered legitimate critique at the time. The authors can be expected to have known that their writing in Urdu, which was the language of Indian Muslims, would cause the gravest offence to the majority of Muslims.

Not surprisingly, Angare led to outrage among large sections of the Muslim community. The Hindustan Times on 21 February 1933 carries a quote from the Central Standing Committee of the All India Conference in Lucknow, which declares that the meeting

> strongly condemns the heartrending and filthy pamphlet called Angare [...] Which has wounded the feelings of the entire Muslim

community by ridiculing God and his Prophets and which is extremely objectionable from the standpoints of both religion and morality. The Committee further strongly urges upon the attention of the UP Government that the book be at once proscribed. (Mahmud 1996: 448)

There were fatwas issued against the book and its authors. Funds were collected for the prosecution and punishment of the authors.

It is worth noting, however, that although there were prominent calls for the banning of the book, there were also notable voices of support for Angare within the Muslim community. Some significant voices within the Urdu press were critical of the calls for a banning of Angare by Muslim religious leaders. On 5 March 1933, Payam, a news publication that was published in Aligarh, stated:

In this respect the attitude of religious leaders is exceedingly misleading and incorrect. Condemnation, proscription and legal action are no answer to blasphemy and atheism. How ironic that the very people who claim the right to free speech from the Government are not willing to concede the same right to their countrymen. [...] If truth is with religious leaders, why do they get flustered by one attack of heresy and blasphemy? [...] When a man has no plausible answer to a question he gets annoyed and enraged. Such anger and rage can silence criticism for some time but the question still remains. The progress of the human mind cannot depart from the path of research. This is a futile effort. It is hoped that the leaders of the community will try to provide satisfactory answers to the problems underlying Angare [...]. (Mahmud 1996: 449)

Therefore, despite the outrage among some Muslims about the publication of Angare, the British colonial authorities could have pointed to some support for publication within the Muslim community if they had wanted to support critical discussion of Islam and Muslim politics. Instead, they preferred a strategy of simply banning the book. The reaction of the British colonial authorities was predictable in the sense that their priority was to re-establish public order rather than to safeguard the individual freedom of speech of their colonial subjects. There had been previous incidents of banning literature that had been critical of British colonial rule. The period from 1907 to 1947 saw a mass of printed material hostile to British rule. There was also an attempt by the British colonial authorities to check and control this literature of resistance through coercion, restriction and control, while at the same time maintaining their alliances with Indian groups (Barrier 1974: chapter 2). In particular, from 1930 onwards (recall that Angare was published in 1932), the British colonial authorities per-

ceived the threat posed by nationalist literature as well as political writing in newspapers. During this period, they also became increasingly aware of the danger posed by religious communal tensions between Hindus and Muslims, which could run into wider-scale unrest. The British colonial authorities responded to this growing phenomenon through policies of force or proscription. Significantly, approximately half of all the matter banned by them from 1933 to 1935 dealt with religious controversy (Barrier 1974: 127).

Angare reflects other developments in Indian literature in the early twentieth century that indicate the growing emergence of anti-British and nationalist feelings among young educated Indians. Premcand's short stories about resistance to colonialism had been banned by the British in 1908 for spreading sedition and insulting the British government. In the case of Angare, the stories were not only political dissent against the colonial authorities, but they were also an internal critique by a group of young Muslims. This complicated the story because the book's criticisms of Islam led to widespread Muslim anger and protest, which in turn provided the British with an opportunity to argue that Angare was an attack on the 'religious sentiment' of Muslims. Significantly, Muslim reaction to Angare allowed the British to ban the book, using incitement to religious hatred legislation rather than other forms of emergency legislation. It is also worth noting that the authors of Angare issued a statement entitled 'In defence of Angare. Shall we submit to gagging?'. This statement included the intention to establish a League of Progressive Authors, which was first announced in Allahabad's *The Leader* in 1933 and subsequently became the Indian Progressive Writers' Association.

10.3   Regulating Muslim speech in contemporary Britain

The Angare incident provides a useful comparator for the regulation of Islam and Muslims in contemporary Britain by offering a look into the different techniques for regulating and managing religious diversity. The incident also helps us understand contemporary political debates about incitement to religious hatred legislation, which has caused recurrent political disagreement between British Muslims and liberals ever since *The Satanic Verses* affair (Modood 2005: chapters 5-6).

In British India in the late nineteenth and early twentieth centuries, incitement legislation was used extensively to ban a wide range of material that was deemed to be overly critical of Western civilisation. As Gerard Barrier has noted, this use of incitement to hatred legislation ensured that the British were able to suppress dissent within the communities over which they exercised colonial rule, particularly the educated liberal voices that were starting to organise anti-colonial and nationalist political agen-

das. In the context of increasing political unrest in British India, it had been initially assumed by the British authorities that incitement legislation could be used as a bulwark against increasing communal tensions and violence between the Hindu and Muslim community (Barrier 1974: 97). In the case of Angare, however, we see that this criminal provision was used by an alliance of the British colonial authorities and the religious clergy to criminalise speech by Muslims who were either critical of colonial rule or who were setting out an 'internal critique' of Islam. To this extent, the criminalisation of the authors of Angare is different from the use of incitement legislation in response to the 1924 publication of *Rangeela Rasool*, which was critical of the character of the Prophet Muhammad (Barrier 1974: 99).

The use of incitement to hatred legislation to ban literature and regulate speech is a clear example of the state's most powerful regulatory technique. The Angare incident allows a deeper understanding of the roots of contemporary British incitement to hatred legislation by allowing us to understand that this legislation was originally intended to facilitate public order rather than promote freedom of speech. The historical origins of the legislation reveal a tension between its original use as a means of controlling political resistance to colonial rule and its current aim of minority protection. An analysis of the origins of incitement legislation suggests that there are deep-rooted structural reasons for the difficulties that arise when such legislation is used to protect minorities from hate speech. The common law offences of blasphemy and seditious libel have provided some of the conceptual means of distinguishing between acceptable expression and expression that should be regulated as a potential risk to public order. When the Public Order Act was passed in 1936 as a direct response to the British Union of Fascists, the most important provision was section 5, which made it an offence for any person in any public place or at any public meeting to use 'threatening, abusive or insulting words or behaviour, with intent to provoke a breach of the peace or whereby a breach of the peace is likely to be occasioned'. The provision replicated the formula also found in earlier colonial criminal codes regulating sedition. This legal formulation was also used by the common law of sedition, which proscribed words and conduct that were a threat to public order (Malik 2009).

The historical background to incitement to hatred legislation is rarely discussed in contemporary debates. This is surprising, because in Britain many of the key political events involving Muslims have focused on free speech issues: for example, *The Satanic Verses* affair and the Danish cartoon controversy. Moreover, the potential use of incitement of religious hatred legislation to protect Muslims from 'hate speech' has been one of the most heated political controversies of the last five years (Malik 2009). The government response to the challenge of prejudice and hatred

against Muslims was to extend the incitement to racial hatred provisions to religion. To this end, they introduced the Racial and Religious Hatred Bill in June 2005,[1] which sought to add hatred on the grounds of religion to the existing legislation. There was, however, a significant media and political campaign against the bill, which was described by Fenwick and Phillipson, authors of *Media Freedom under the Human Rights Act*, as ill-informed (Fenwick & Phillipson 2006: chapter 9). Parliament approved the amended version and passed the Racial and Religious Hatred Act on 31 January 2006, adding this offence to the Public Order Act of 1986.

Although the government and many in the Muslim community[2] were advocates of incitement to religious hatred legislation as a panacea for prejudice and hate speech, it is not at all clear that the legislation adequately protects Muslim self-expression. As Phillipson has recently argued, although the legislation purports to protect Muslims, it has been a double-edged sword. The incitement provisions have, for example, been used to criminalise Muslim self-expression on controversial topics such as the Iraq War and the Danish cartoons. On the one hand, incitement to racial hatred legislation has the potential to protect Muslims against attacks on their religion by non-Muslims. On the other, Muslim groups may find that although the law has given them the protection from the new offence of religious hatred, while protecting them against religious hate speech, it has also taken way some of their freedom to speak, which is justified on the ground that others find their religious speech hateful.[3]

10.4   Who speaks for British Muslims?

The Angare incident also reveals a more subtle form of control over Muslim subjectivity that is relevant to today's world. The incident suggests that in some situations, there may be a tension – or a conflict – between the two goals of Muslim political agency: on the one hand, freedom for individual Muslims and, on the other, recognition of Muslim representative organisations. Angare was published in December 1932 and prohibited in March of 1933. The fact that only five books remained available by the end of the year indicates the astonishing speed with which the colonial authorities destroyed this publication. They justified banning the book with the outcry that came from the traditional Muslim community, the ulama. What was it about Angare that the ulama found so unsettling? At one level, the language in the short stories was clearly provocative because it used sexual imagery as the basis for its critique of traditional religious values and practice. In addition, the short stories deal with the iniquitous distribution of social power among Muslims and can be read as an attack on the prevailing religious establishment. The book was written in Urdu rather than English, which would have ensured widespread dissemination

among Muslims. Between the lines, Angare was a book written by Muslims and a critique of Islam and the ulama; its target audience was the wider Muslim community. Therefore, it is understandable that the ulama would read the book as an attack on their authority and power. Comprised of male religious elites, the ulama also disapproved of the book's two women authors, whose stories challenged the entrenched patriarchal attitudes and practices in the Muslim community (Mahmud 1996: 447-448).

In organising the protests, the ulama succeeded in galvanising widespread and popular opposition to Angare, as well as presenting themselves as the legitimate 'gatekeepers' of the Muslim community. In this context, there was a mutual interest between the colonial authorities (who objected to Angare's critique of colonial rule) and representatives of the Muslim community (who objected to the challenge to orthodox Muslim practices and Muslim patriarchy). Both these groups wanted to see Angare banned. This alliance between the colonial state and the ulama meant that 'minorities' within the Muslim community – those who were critical of the Orthodox Muslim community – were marginalised. Moreover, those voices within the Muslim community that were in favour of publication were ignored. In effect, in the immediate context in which Angare was censored, there was a convergence between the colonial authorities and the patriarchal male clergy. These two powerful groups formed an alliance and used incitement to hatred legislation to ban Angare, thereby suppressing criticism of British colonial rule as well as criticism of male religious leaders.

If we understand the role of the ulama during the Angare incident, its collusion with colonial authorities and its ability to censor the voices of individual Muslims, we can see its relevance in a contemporary context as well. As in the past, granting legitimacy to some Muslim representative groups as political representatives of Muslims can potentially detract from the agency and political autonomy of individual Muslims. It can also entrench and reify some Islamic traditions at the expense of other traditions that do not receive backing from the state and religious authorities.

During the Angare incident, the British colonial authorities chose to treat the established ulama, rather than the younger, more progressive writers, as the representatives of Islam. In contemporary Britain, the entrenchment of the various schools of Islam (Deobandi and Barelvi) that developed during the colonial period is a significant feature of the religious formation of Muslim communities. Moreover, in present-day Britain, the approach to interacting with the Muslim community has tended to focus on favouring one representative organisation over another depending on political expediency, rather than maintaining a broad-based strategy of engagement with a wide range of Muslim organisations. Organisations such as the Muslim Council of Britain were favoured since their creation

in 1998, but after the beginning of the Iraq War in 2003 and the London bombings on 7 July 2005, they fell out of favour, as the government argued that they were not 'sufficiently tough on extremism'. Instead, the government found new interlocutors in Sufi Islam and advocated the Sufi Muslim Council (SMC), which was launched in July 2006 in the House of Commons by then Secretary of State for Communities and Local Government Hazel Blears (Kristiansen 2006). The SMC took a different view on the relationship between British foreign policy and causes of 'extremism' in the British Muslim community. The tactic of offering 'state recognition' to Muslim representative organisations based on whether they meet certain political pre-conditions – e.g. whether they are sufficiently 'tough on extremism' or 'agree with our liberal values' – has influenced government policy. As recently as July 2008, Blears confirmed that the British government would operate 'rules of engagement' that set preconditions before it would deal with Muslim representative organisations.[4] Although the new policy's focus on consulting with individual Muslims may be welcome as part of the focus on Muslim autonomy, its concentration on limiting Muslims to a non-political and private role would suggest that concerns about the 'political' presence of Muslims in the public sphere continue to worry British politicians who are mandated to engage with Muslims.[5] The choice of who represents Muslims, during the Angare incident as well as in more recent times, may be influenced by instrumental goals (e.g. maintaining public order) rather than ensuring the associational aspects of religious freedom.

10.5   Concluding observations

At first sight, the Angare incident seems to be a relatively minor historical event. Nevertheless, it can be understood as a catalyst that allows us to understand the way in which colonial power relations cannot be understood through a simple method of a colonial authority exercising power over a colonised population. Rather, Foucault's (1982: 208-209) insight that minor forms of dissent can shine a light on the complexity of power relations, the variety in their points of location and methods used, as well as their relations to other strategies of resistance. In the context of the *Angare* incident a mere focus on colonial power would obscure the complicity of the Muslim ulama in suppressing Muslim dissenting voices. Thus, the Angare incident reveals the way in which the British authorities entered into an alliance with the ulama to censor and control Muslim dissent. This granted the ulama the status of representatives of the entire Muslim population, rather than just figures of religious authority. The transformation in the role of the ulama from one of religious to political authority allowed the British to exercise 'racialised' governance to control

Muslim political dissent; simultaneously, they could deal with their internal critics within the Muslim community. Similar tendencies can be traced in contemporary attempts by British state authorities to control who 'represents' and 'speaks for' British Muslims. In both situations, not only the state, but also Muslim community organisations acted together to police the boundaries of 'legitimate' Muslim expression and conduct.

The Angare incident illustrates other continuities between the colonial period (where the British colonial state governed Islam as a religion that was outside the boundaries of the British nation state) and the contemporary period (where the British liberal democratic state regulates Islam as a minority religion within the nation state). In general terms, both the colonial and the liberal states use forms of legal and political regulation to control Muslim subjectivity (e.g. speech, writing, expression and association) as it is formed and developed within the Muslim community, as well as the structural conditions within which it emerges into the wider public sphere. More specifically, in both colonial and liberal contexts, incitement to hatred legislation is presented as a form of protection for Muslims, but it can also be used to limit Muslim self-expression.

The research agenda for the accommodation of Muslims in Europe needs to understand various forms of legal and political regulation in a historical context. This discussion has focused on incitement to hatred legislation as one form of British colonial practice in India between the nineteenth and early twentieth centuries, thus connecting this geographic cluster and time period to present day. It does not treat the arrival of Muslims in Britain from the 1950s onwards as a wholly new phenomenon, but rather examines British attitudes and practices of the governance of Muslim subjects in a continuous timeframe. This allows connections and comparisons to be drawn between colonial India, where Muslims were colonial subjects, and contemporary Britain, a post-colonial society in which Muslims are now living as British citizens.

When comparing two situations from different historical contexts, it is important to ask what we are hoping to learn. On one level, this is a descriptive exercise where a factual comparison between the Angare incident and present-day Britain may reveal relevant facts about the governance of Islam. In this way, the comparison can shed light on topics such as how states can manage religious diversity in different contexts (e.g. colonial versus liberal democratic). It can also reveal continuities in the challenges that are faced by Western states seeking to regulate a non-Christian religion such as Islam (e.g. how they should balance goals such as public order, safeguarding individual rights and ensuring proper consultation with Muslim 'representatives'). This discussion uses the comparison between the Angare incident and contemporary politics as part of an exploratory rather than normative analysis. Nevertheless, there is a minimal sense in which evaluation remains important because we are forced to ask

ourselves what we are looking for in making a comparison between these two timeframes. We are confronted with a vast range of data if we start to ask questions about whether governance during these two periods is similar or different, or about its impact on Muslims. An initial task, therefore, is to narrow the field of analysis to a more limited line of enquiry.

One way of narrowing this field is to give priority to the question of Muslim subjectivity. The colonial experience raises distinct issues about the regulation of Muslims, whether it is as colonial subjects who were 'over there' in the past, or as minorities who are 'over here' in the present. One difficulty is that the experience of colonial domination makes the process of asserting an authentic subjectivity more difficult. In the Angare incident, there were a number of possible ways to define the Muslim colonial subject. Could the authors of Angare, who were drawing on 'progressive ideas', such as gender equality, claim to be Muslim subjects on the same terms as the ulama, who were objecting to those ideas? In this example, the subject position of the authors cannot be represented in simple terms as a resistance to colonialism. Their resistance draws upon ideas that are a legacy of empire. Hence, as Said (1993: 253) argues, 'that is the partial tragedy of resistance, that it must to a certain degree work to recover forms already established or at least influenced or infiltrated by the culture of empire'. In his opinion, what is needed is a project of 'cultural resistance' in which the colonised subjects reclaim a 'history capable of development, as part of the process of work, growth, and maturity to which only Europeans seemed to be entitled' (Said 1993: 257).

In drawing comparisons, it is also important to note that there will, of course, be differences between the past 'colonial' and present 'liberal' contexts. The shift from viewing Muslims as 'colonial subjects' to 'free and equal citizens' significantly changes the political, social and economic context. Although individual rights in liberal democracies, such as freedom of religion or free speech, are not a panacea (Malik 2008), they can act as a restraint on the legal and political techniques that are available for the regulation of Muslims and Islam. The shift from the past colonial context to the present liberal one may also increase the range of opportunities for Muslim civil and political action, as well as transforming 'traditional religion' – Islam – when it comes into contact with other ideas (e. g. liberal rights or gender equality) in the contemporary public sphere (Habermas 2006: 1-25). Many of the controversies concerning Muslims that are vexing political and legal constitutionalism in European liberal democracies cannot be easily categorised as either 'colonial governance' or 'liberal governance'. Comparing incidents such as the banning of Angare in 1932 with the contemporary governance of Islam and Muslims provides one point of entry into exploring these issues.

Notes

1   Bill 11, 54/1, introduced to the House of Commons on 9 June 2005.
2   See the support of the British Muslim British Council for incitement to religious hatred legislation, 'MCB supports legislation on incitement to religious hatred', 27 November 2001 (http://www.mcb.org.uk/media/pr/271101.html).
3   In November 2006, a group of Muslim protestors who called for the killing of British troops as part of a demonstration against the Danish cartoons was charged with both incitement to racial hatred and incitement to murder. Their comments included protests at the presence of British troops in Iraq and placards stating: 'Annihilate those who insult Islam'. One protestor, a 23-year-old web designer, was convicted of incitement to racial hatred ('Anti-cartoon protestor convicted of incitement to racial hatred', *The Independent* 10 November 2006).
4   'Preventing violent extremism: The government's approach', a policy exchange seminar led by Rt. Hon. Hazel Blears MP, Secretary of State for Communities and Local Government, 17 July 2008. See http://www.mcb.org.uk/media/pr/271101.html.
5   From ibid.: 'The fact remains that most British Muslims, like the wider community, are not politically active, do not sit on committees, and do not attend seminars and meetings. They are working hard, bringing up families, planning their holidays, and going about their business. So we need an engagement strategy which gets past the gate-keepers and connects with the business leader, bus driver, shop keeper, stay-at-home Mum, or student. We need to develop resilience amongst the mainstream of Muslim society to withstand, isolate and drive out the Al-Qaida narrative. I call this a 'whole community' approach: engaging with a much broader audience than the established groups we have traditionally engaged with.'

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Chapter 11
Portuguese colonialism and the Islamic community of Lisbon[1]

Mário Artur Machaqueiro

11.1   The Portuguese governance of Islam: Historical background

This chapter deals with a story of power relations between the Portuguese colonial government and the Muslim community that began to settle in Lisbon during the 1960s and attempted to assert itself, both in cultural and political terms. It documents the struggle for social visibility that is involved in the interaction between dominant and subaltern groups. But above all, it offers an example of the kind of governance the Portuguese authorities were forcing upon Muslim communities during colonial rule, more specifically during the ten years of war (1964-1974) that was waged against the nationalist movements in the colonies of Guinea-Bissau and Mozambique.

I will focus on the role of Suleiman Valy Mamede and the association he led, the Islamic Community of Lisbon (ICL), which was set up in the Portuguese capital in 1968. Although the number of Muslims in Lisbon was rather small by that time, Valy Mamede thought he could claim a special rank for himself and his association considering the millions of 'Islamised' people who lived in Guinea and Mozambique, then thought to be integral parts of Portugal. In that demographic and political scenery, he cherished the dream of becoming the spokesman of the 'Portuguese' Islamic populations, federating them under the ICL, but this project was doomed to failure. It clashed with the colonial authority's attempts, particularly in Mozambique, to gain the support of the local Muslim leadership against the anti-colonial guerrillas. This gave rise to a tug of war: on the one hand, Valy Mamede and his followers sought to promote their place within the colonial order, forcing the Portuguese administration to fulfil a commitment, until then just rhetoric, to a multiracial society; on the other, the colonial government discouraged such attempts that could easily get out of control. In spite of his closeness to some influential circles of Salazar's dictatorship and even the Catholic Church, Valy Mamede ended up being seen by the authorities as a nuisance, someone who could disrupt a delicate balance because he did not fit into the Portuguese strategy. He was so mistrusted that the intelligence services and the political police put him under surveillance until the end of the dictatorship.[2]

To get the overall picture of this particular story, one has to take into account the position Portugal occupied in the hierarchy of the world system. According to Boaventura de Sousa Santos, this country was for many centuries the core of a colonial empire and on the periphery of Europe, performing the systemic function of intermediary between the core and peripheral regions. This gave it the double character of a simultaneously colonial and colonised country (Santos 1990: 107; 1994: 58-59, 130-132; 2002: 42-45). Portugal has been defined by a contradiction between consumption patterns characteristic of core countries and a production model specialised in segments not highly valued on international markets. Portuguese identity images could only suffer from this duality, which led to the coexistence of social representations typical of core societies with others typical of peripheral ones, in configurations that were often paradoxical (Santos 1994: 60).

Until the end of the nineteenth century, without financial, organisational or human resources to run the extensive territorial possessions in Africa, unable to institute a real colonial state and forced to hire local populations to perform many of the administrative tasks, Portuguese colonialism had been basically self-delusional (Santos 2002: 58-59). It could strive with all its might to join the restricted club of European imperial powers, but it had neither the means nor the causal dynamics to fulfil that pretension. Such a precarious position remained after World War II, despite the fact that the Portuguese state had managed to gather some fund reserves, thus becoming more resourceful in its sway over the African colonies. Already in 1959, a memorandum from the British Secretary of State for Foreign Affairs foresaw the collapse of Portuguese possessions.

> By the end of the decade the Portuguese will probably have been forced to realise that they have neither the political nor the economic resources to maintain indefinitely singlehanded control of their African provinces.[3]

Although Portuguese colonialist practices did indeed show the external signs of colonial domination, at the same time they concealed the fact that Portugal, as a colonial power, was merely a mediator of Western core countries' interests in Africa. When those interests began to shift to a neo-colonialist strategy in the 1960s and 1970s, Portuguese pretences lost all foreign support, particularly from the United States (Antunes 1991; Rodrigues 2008). That Salazar's policy stuck to the colonies against the whole world only reveals the importance colonialism had for the national self-image of an authoritarian political elite.

The governance of Islam in the Portuguese context reflected the predicaments of its semi-peripheral condition. Engaged in a power com-

petition, the Portuguese authorities and ideologues recognised the strength of Islamic influence and the prospect of its superiority, which threatened to overturn the Catholic (Portuguese) ascendancy over the African populations – an ascendancy that, due to a lack of means, was always more rhetorical than effective. In other colonial contexts, namely in French possessions in sub-Saharan Africa, Muslims were also perceived as threatening and untrustworthy, and the authorities kept a close watch on their religious leadership (Harrison 1988: 42; Triaud 2006: 271). But my working hypothesis is that the discomfort that the Portuguese authority felt in relation to Muslims, especially those of Asian origin, was structurally linked to the semi-peripheral condition of Portugal and the frailties it implied.

One can detect a distinctive pattern in the relations of Portuguese colonialism with Islam and the Muslim populations. Starting in the 1940s and even earlier (Enes 1946: 212-215) and continuing until the first half of the colonial war period (1961-1965), Muslims were conceived as menacing and unmanageable (Bastos 2008). A whole array of ideologues, military, political policemen and colonial anthropologists described how Muslims were keen on overtaking Portuguese power according to the layout of pan-Islamism (Rodrigues 1948; Dias 1956[4]; Franklin 1956). On the contrary, the 'animist' populations of Guinea and Mozambique were considered to be potential allies of the colonial authority. Unlike Islam, impervious to Portuguese 'Western' values, African 'native' religions were not taken seriously and 'animists' were thought to be pliable to Catholic preaching and Portuguese propaganda.

Nonetheless, the end of the 1960s witnessed a dramatic shift in this view due to the knowledge that had been acquired in the meantime. Now the 'experts', particularly those who worked in the intelligence services, saw the local Muslim leaders as preferential allies of colonisers. The assumption was that those leaders had become gradually aware of what they would lose in future independent African nations ruled by 'atheist' Marxist regimes. The 'animists', on the other hand, were known to have been recruited by the nationalist movements and served as their main supporters, thus becoming lost to the Portuguese cause (Cruz 1968; Vieira 1971).

Of course, the old mistrust towards the Muslims did not completely vanish in this new paradigm. Stubborn stereotypes and identity depictions kept on conditioning the political choices. In fact, 'ambivalence' is the key word to explain most of the policies that the Portuguese administration applied to the Muslim communities in the African colonies. Nevertheless, until 1974, those policies shared a wish to build bridges with Islam so that Muslims could be co-opted into the Portuguese war effort.

In order to focus on the role played by Valy Mamede and his ICL, the preceding background information must be kept in mind.

11.2   Twisted relations: The governance of Islam and the Islamic Community of Lisbon

In 1968, under the leadership of Valy Mamede, a small group of 25 Sunni Muslims founded the Islamic Community of Lisbon (ICL). Behind them was a story of migration, as their ancestors had moved from the region of Gujarat in India to Mozambique towards the end of the nineteenth century. Later, some of them came to Lisbon to pursue their high school or university studies and their businesses – namely Valy Mamede, who arrived in 1953 when he was only sixteen years old (Ferreira 1989: 19r; Alves 1995). They were, so to say, pioneering a wave of Muslim migration towards Portugal, which only attained its full expression after the collapse of the dictatorship.

With the creation of the ICL, their purpose was apparently close to the one that inspired the birth of several Muslim associations in Mozambique, many of them controlled by people of Indian origin. They wanted to promote and diffuse the Islamic culture in an environment dominated by Christianity, committing themselves to the ecumenical dialogue between religions so dear to the Vatican in that period. They also put pressure on the authorities so that the Muslims who lived in Lisbon or visited the city could perform their religious duties in proper conditions. In Valy Mamede's view, this required no less than the building of a mosque.

These were the official objectives of the ICL as stated in its statutes. Nonetheless, the historical record – some public speeches that Valy Mamede gave, declarations made in articles published in the bulletin of the association, as well as the information gathered by national intelligence and the political police – give us every reason to suspect that he aspired to a much higher role for himself and the organisation he was leading.

The founder of the ICL and its first president was a complex character. The fact that he worked as a low-level civil servant in the Ministry of the Overseas did not prevent him from mingling with people who were well positioned in the hierarchies of the regime and the Catholic Church. Apparently supportive of the Portuguese dictatorship, his self-affirmation was enmeshed with the assertion of an 'Islamic Community', less real than imaginary. Valy Mamede played on two different – and not necessarily compatible – chessboards: on the one hand, loyalty towards the Salazarist regime and its colonial strategy; on the other, the promotion of Islam in order to raise it to the same level as the Catholic religion. The latter called for greater visibility to be given to Muslims in the context of a transcontinental system perceived as an 'empire'. Valy Mamede was going to find out that such an aspiration would force him to go beyond the acceptable limits defined by the political regime.

The trajectory of Valy Mamede and the group he represented must be understood in the context of the legally framed colonial hierarchy between

'indigene' and 'civilised' or 'assimilated'. He belonged to the last category, one that was expected to enjoy all the rights of the dominant white population; this explains most of his strategy to find a proper place for Muslims who were considered to be socially and politically integrated. In fact, he was attempting to take advantage of a new rhetoric in the ideological legitimisation of Portuguese colonialism. He took this ideology at its face value, or at least pretended to do so, and confronted it with its consequences. By doing so, he was performing the 'logical' role of the 'assimilated', demanding the fulfilment of an 'assimilationism' that the colonial system proclaimed in theory without any real intention to carry it out in practice (Macagno 2006: 57). If, according to that ideology, there were no coloniser and colonised, and if everybody were just plain Portuguese, then Muslims should be given the rights already enjoyed by Catholics.

> [...] It is necessary to dignify Portuguese Islam, in order to prove that the Muslim Community is not a cultural or ethnic minority, but an ensemble of Portuguese who follow the Islamic religion on a par with the rest of their fellow countrymen. (Mamede 1967: 67)

In this statement, Valy Mamede placed the idea of 'ethnicity' in opposition to that of 'citizenship'. The first was an idea that placed Muslims in an inferior position, close to a marginal and minority status. On the contrary, the notion of being a citizen fuelled feelings of pride, suggesting that Muslims were equal to any other 'Portuguese'. Valy Mamede was negotiating the place of Muslims within the symbolic hierarchies of Salazar's regime. If Portugal were supposed to spread from Minho, its northern boundary, to the overseas territories – as the official rhetoric put it – then it would be necessary to recognise the parity between Islam and the Catholic religion in such a huge territory.

> Islam and Catholicism undeniably are the two great religions that occupy places of prominence in the Portuguese territory. (Mamede 1971: 5)

And yet, no matter how much Valy Mamede tried to integrate his vision into the colonial frame, his fate was to clash with the unwillingness of the Portuguese authorities. To illustrate this, I will consider three strategies, all taken from the period that goes from 1968 until the beginning of the 1970s.

i)   First strategy: The claim for political representation
On 24 August 1965, the chiefs of the Muslim Religious Brotherhoods, a network close to Valy Mamede, presented a proposal to the authorities, suggesting that a permanent representative of Islam take a seat in the

Chamber of Corporations, a branch of the institutional system in Salazar's dictatorship. They were requesting recognition of a right that had already been granted to the Catholic religion (Mamede 1970b; Cahen 2000: 577), and thus hinting at the parallel positions of Islam and Catholicism in the Portuguese empire. Later, and according to Valy Mamede:

> [...] The Muslims of Inhambane, in July 1969, also expressed their burning desire to see included, for the first time, the name of an Islamite among the seven representatives of the province in the list of candidates to the National Assembly' (Mamede 1970b: 9).

Muslims were thus striving to become visible in the political arena by reinforcing the links between the Portuguese regime and a supposed 'Islamic Community'. I use the word 'supposed' because, as we will see, that 'community' in its 'overseas' dimension was defined by deep tensions, contradictions and identity cleavages that split it into heterogeneous groups.

On 23 September 1969, Valy Mamede sent a letter to the president of the Provincial Commission of the União Nacional in Mozambique,[5] which expressed the requests for visibility within the structure of the Portuguese state. But, above all, it conveyed all the disappointment for not seeing such wishes satisfied. It is worthwhile to quote extensively from Valy Mamede's text.

> I learned through the press of the composition of the list of candidates representative of Mozambique to seats in the National Assembly, a list sponsored by the União Nacional, in which I believe this patriotic organisation has once more forgotten the great Islamic mass of Mozambique.
>
> Your Excellency has simply ignored the wish, expressed by the Muslims of Inhambane who were undoubtedly supported by the great majority of the Islamites of that province, to have for the first time a *qualified Muslim* on the list of the União Nacional [...].
>
> I am sure that Your Excellency is aware that, without a single shred of exaggeration, one-fourth of the total population of Mozambique is Islamic, and that the União Nacional has presented a list that regrettably did not recognise these Muslims who, as is common knowledge, refuse to capitulate in face of the enemy's greed and on all fronts where the fight is imposed upon us.[6]

The fact that the rhetoric used by Valy Mamede did not in any way resort to humbleness or self-humiliation is telling. To the contrary, he assumed a tone of accusation, while at the same time restating his alignment with the regime's perspective on the colonial war, and perhaps taking from

such 'loyalty' an argument to justify his claims (Vakil 2004b: 299). This letter could also be read as a strategic trade in a power relation: the loyalty of Muslims to colonial policies would be granted in exchange for the promotion of their identity.

Valy Mamede forced the Portuguese authorities to face the consequences of their own discourse, namely quoting from an official communiqué of the União Nacional in which this organisation committed itself to 'unite all citizens who wish to contribute to the achievement and defence of the constitutional principles, without distinction of political affiliation or religious faith, for the benefit of the supreme interests of the Portuguese Nation'. What Mamede was doing was, in fact, to play off the contradictions implicit in the regime's propaganda.

> If the União Nacional truly wishes, in the future, to fulfil the noble purposes that its mentors prescribed, and in order to be representative, it cannot in any way ignore the Islamic element as it has done until now in spite of the wish, clearly stated by the Muslims to this organisation, to take an active role in national life [...].

And Mamede repeated a claim he had already expressed in previous articles and public speeches, this time moving from the parity of religions to the parity of citizenship: 'Muslims are not a cultural or ethnic minority, but Portuguese citizens with equal rights and duties as the rest of their fellow countrymen.'

In an allegedly multiethnic society, Islam was returning with a vengeance. A new generation of leaders was born within a religion whose expansion the colonial authority had been unable to check; they had personal projects and were ready to claim their place in accordance with the role they knew Islam would obtain when projected onto the symbolic geography of the 'empire'. But the Portuguese authorities resisted these demands. Several factors explained such an attitude: first of all, the intricate problem of how to face the liberation movements in the colonies, something that required the religious ethnos to be framed; on the other hand, the phantasmatic reading that conservative Catholicism, the ideological core of the dictatorship, did of Islam and its relationship with a mythified West. All these factors converged against Valy Mamede and his followers, condemning their attempts to give Muslims a renewed visibility in the political sphere of Portuguese society.

ii)   Second strategy: Building a mosque in Lisbon
Mamede and the ICL conceived another device to symbolically assert the Muslim presence: the building of a mosque in the capital of the empire. This idea had given a sort of banner to the association since its inception and apparently was not opposed by the authorities. As the most prominent

newspapers announced in 1969, the mayor of Lisbon was ready to offer a plot of ground in one of the hills of Lisbon for that purpose and some Catholic bishops were willing to participate in a public subscription that had been opened the year before to collect the necessary funds. The bulletin of the ICL justified the need for such a building in the following terms:

> The absence of a mosque in the capital of a country traditionally composed of people of different faiths is a serious problem not only for Muslims living in Lisbon, but also for the Portuguese and foreign Muslims that constantly visit us.
>
> In all European capitals there are mosques, and we believe that Lisbon cannot avoid it, taking into account, on the one hand, the Ecumenical movement launched by the much-missed Pope John XXIII, and, on the other, the traditional religious coexistence that we have in the country.[7]

This excerpt conveys a significant comparison between Lisbon and other 'more advanced' European capitals, which hints at the still 'non-European' character of a city that propaganda depicted as the centre of an empire. In order to become 'truly European', Lisbon should have a mosque. The improvement of Muslim identity in the Portuguese capital would in turn improve the position of the city in the imagined hierarchy of European capitals. One wonders how this message could have possibly been palatable for the Portuguese regime.

Quite significant was the location that Valy Mamede idealised for Lisbon's mosque, a place that was loaded with identity fantasies.

> The ideal would be to locate it in the area of Restelo or Belém, for historical reasons, because the current existence of Islam in Portugal is due to the discoveries that restored the contact between the Christian West and the Islamic East. In fact, both Restelo and Belém are closely linked to the discoveries' undertaking. But, of course, if that site is not available, any other one will be good for us.[8]

Besides the obvious attempt to exploit the propaganda mythology of discoveries that Salazarism instilled in the representations of national identity, Valy Mamede wanted to insert Islam at its very symbolic centre. Therefore, a privileged space for Muslims such as the mosque of Lisbon could be part and parcel of that centrality. The simple existence of such a building stood immediately at the heart of a politics of identity assertiveness. Far from being an uncontroversial issue, the idea of installing a massive mosque in Lisbon forced the Portuguese authorities to face 'otherness' and deal with it. And that probably explains why Muslims in Portugal had to wait for the post-colonial age to finally see the construction

of their mosque in Lisbon, despite the apparent support the project was receiving.

iii)   Third strategy: Becoming a centre for 'Portuguese' Islam

The building of a mosque in Lisbon, or the claim for renewed visibility in the public sphere, amounted to acquiring a central position in Portuguese society. And that wish was perhaps the most disturbing for the authorities.

To properly understand the strong opposition to Valy Mamede's ideas, one must link it to the strategy regarding the Islamic populations of Guinea and Mozambique. As I mentioned before, by the end of the 1960s, the official policies towards these communities had undergone a profound change. There were now some key figures in the army and the intelligence services who thought that the Islamic leadership could be seduced into becoming allied with Portuguese interests in the colonies. Fernando Amaro Monteiro stood at the helm of the movement. Born in Angola in 1935, Monteiro was a scholar who worked as an assistant and consultant at the Services of Centralisation and Coordination of Information in Mozambique from 1965 to 1973. He is a crucial figure who has not yet been the object of detailed study. As a liberal monarchist, Monteiro was an opponent of Salazar and was subjected to constant surveillance by the political police, but he still believed that a new and more democratic Portugal should preserve its colonial possessions. This conviction led him to work intensively in the Mozambican intelligence services, which hired him in spite of his heterodox political views. Being one of the most learned Islamologists in Portugal, Monteiro was at the core of all the attempts made to approach the Muslim leaders, using the techniques of 'psychological warfare' to align them with the 'Portuguese cause' in the struggle against the Frelimo, the Mozambican Liberation Front.[9] It is impossible here to analyse in detail the 'psychological action' that he reserved for Mozambican Muslims, a plan in four stages: 1) 'detection', a phase for the collection of data on the cultural context and structures of the Islamic leadership in Mozambique; 2) 'attraction', the seduction of Muslims through public acts of recognition by the colonial power; 3) 'commitment', persuading the Muslim dignitaries to identify themselves with the Portuguese administration; 4) 'mobilisation' (*accionamento*), involving the Muslim populations and their religious leaders in the 'anti-subversive' war against the liberation movements (Monteiro 1989b: 84-89).

Monteiro's plan was not exactly a Portuguese invention. Before and during World War I, in their sub-Saharan colonies, the French administration had already lured Muslim dignitaries into a patronage system of collaborationism and dependency (Harrison 1988: 34, 38-40, 107; Robinson & Triaud 1997). As in the French case, the Portuguese design was immersed in the ambivalences and contradictions typical of the

politicisation of Islam. On the one hand, the Islamic religion was expect-
ed to work as a dam against the 'communist threat' in Africa. On the other,
the authorities were deeply afraid of the 'hegemonic' drive they ascribed
to Islam, suspecting that any space given to it would be used to feed 'Arab
imperialism'.

All this explains why Monteiro, as well as the colonial governors he
managed to influence, developed an ambivalent relationship with Valy
Mamede. For them, he could be either useful or damaging to Portuguese
intents, depending on how fully he would be able to make his goals real.
They believed it necessary to bring him under control lest he disrupt the
new colonial policy concerning Islamic communities. As we will see, all
this required limiting the scope of Valy Mamede's influence, which meant
narrowing down the spatial range of his activities.

> In fact, Mr. Valy Mamede is just the President of the Islamic
> Community of Lisbon and it is up to him, I think, to exclusively
> relate to what the organisation is concerned with.
>
> Everything else will be, as far as he is concerned – at least in respect
> to Mozambique – an intrusion in the internal affairs of the Province,
> unless the statutes of the Community of Lisbon grant it powers to
> spread its action to the entire Portuguese territory. If this were indeed
> the case, let me express that I consider this fact as dangerous and
> harmful to the policy that, at least in Mozambique, is being developed
> with the purpose of controlling and mobilising the Islamic masses.[10]

The authorities suspected that Valy Mamede's project, aimed at granting
visibility to Islam in the public space, was in fact attempting to duplicate
the centralist model by means of which Portugal intended to subordinate
the colonies. He was being accused of wishing to unify all 'Portuguese'
Islamic communities, centralising them in Lisbon so that Muslims from
the colonies would become diluted and his could be invested as their
highest leader.

The clash between Valy Mamede's centralising drive and Monteiro's
programme reached its peak after the visit the former made to Mozam-
bique in May 1970. The trip had been in preparation since February 1969,
when Valy Mamede asked permission from the Overseas Minister to
travel to Mozambique with all the facilities required in order to pay a
visit to the most important districts in the local geography of Islam. The
overall purpose he transmitted to the ministry was to collect data that
would allow him to publish a book on Muslim Religious Brotherhoods.[11]
The first reply from the Portuguese authorities to this request was negative,
and we have all reason to suspect the influence of Monteiro behind that
decision. On 4 March 1969, Monteiro wrote a classified report[12] whose
title contained a whole indictment against Valy Mamede's presumed

agenda: 'Hegemony of the Islamic Community of Lisbon over the remaining Mohammedan communities in the Portuguese territory'. Monteiro's assessment of the course of action taken by the leader of the ICL revealed a strong apprehension regarding his plans. The starting point for this report exemplified the kind of governance that Muslims were being subjected to. The knowledge that Valy Mamede's organisation had just appointed three delegates to Mozambique[13] led Monteiro and the director of SCCIM to unleash a network of control. Local governors, intelligence services and the political police were mobilised to find data on the three individuals[14]. All this resulted in a final reasoning that Monteiro highlighted in his report.

> By appointing delegates to Mozambique, the procedures of the Islamic Community of Lisbon seem determined solely by its president, Suleiman Valy Mamede.
>
> The aim this individual pursues is, after all, implicit in his own work 'Mohammed and Islam', in which the author explains the need for the heads of Muslim states and *representatives of the Islamic communities in non-Mohammedan countries* to meet in periodical conferences.[15]

This comment made its way to higher authorities. On 13 March 1969, Baltazar Rebello de Sousa, then Governor General of Mozambique, sent a letter to the Overseas Minister in which he made it clear that he disapproved of Valy Mamede's visit to the colony, partially grounding his position on the arguments Monteiro had used in his report.[16] The crucial premise to a recommendation against that visit was that it might clash with the new tactics of attraction/cooptation of the 'Islamic masses' (Vakil 2004b: 299-300). In other words, the perception existed of a power game being played between the association that Valy Mamede headed in Lisbon and the administrative structures of the Portuguese state. And that game seemed focused on the influence over the abovementioned 'Islamic masses'.

Despite these negative judgments, Valy Mamede did eventually travel to Mozambique, in May 1970. In the archives I consulted, I was not able to track any indication of backstage influences being summoned to give him the necessary permission. One thing is certain: he no longer declared the study of Muslim Brotherhoods as his motive for that trip. Instead, his stated goal was now to deliver a number of lectures and, above all, to receive donations for the construction of a mosque in Lisbon. If we are to believe the book that Valy Mamede himself wrote and published that year after his visit to Mozambique, the tour was a complete success (1970b). When we look at the pictures printed in the book, we are immediately struck by the amount of official coverage that his visit received, despite the previous

objections that the central powers had raised. He went to Nampula, Monapo and Quelimane, among other places, and was always met by local dignitaries – mayors, chiefs of police, deputies, political personalities and so forth. Everything seemed prepared to stage the *ideal visibility* for a well-integrated Muslim. There was a two-way profitable trade going on here: Valy Mamede exploited the support of the authorities to project his own image and the image of the religious community he was supposed to represent; and, at the same time, the colonial powers exploited his presence as living proof of the intercultural harmony only achievable under Portuguese rule.

And yet, that book glossed over the nasty tensions and open conflicts that his visit roused among some local Muslim communities, especially in the north and particularly during his stay on the island of Mozambique. There, he clashed with local Islamic dignitaries, causing such an uproar that the political police reserved a whole file to deal with the issue and Monteiro felt he should personally visit the area, after Valy Mamede's return to Lisbon, in order to collect testimonies from the leaders of Muslim Brotherhoods and the local Mohammedan Association.[17] These tensions emerged mostly from the fact that some Mozambican Muslims resisted what they considered to be a centralising drive in Valy Mamede's intentions. Local leaders, as well as the Portuguese administration – albeit for very different reasons – could not accept the concentration of powers in the ICL and its projection as the epicentre of the 'Portuguese' Muslim world, something that Valy Mamede apparently aspired to. Some Mozambican Islamic dignitaries actually resorted to complaining about his behaviour before the colonial authorities with the purpose of asserting their autonomy in relation to him and his ICL.[18]

These conflicts partly coalesced around the issue of a Portuguese or Mozambican location for the central mosque that Valy Mamede wanted to build. On 14 May 1970, a document from the political police disclosed all the discomfort felt by part of the Mozambican Muslim communities even before his arrival.

As soon as the news [of Valy Mamede's visit] spread, members of several Islamic communities of Lourenço Marques [currently Maputo] have made various comments, of which the following are the most conspicuous:

[...] They agree even less with the construction of a mosque in Lisbon, because in the metropolis the number of believers who would attend the five daily prayers and the call is not sufficient. To this one must add the fact that the Chasita Sect, to which the Metropolis's Islamised belong, demands the presence of a minimum of 40 attendants to Friday prayers, and that is a number much larger than the whole number of Islamised living there [...].

> They think that the intention of Dr. Suleiman to create a centre
> representing all the communities on the Island of Mozambique is
> a mistake, since the largest worthy and thinking masses are settled
> in Lourenço Marques, which is the best place for an Islamic centre
> [...].[19]

The so-called 'Muslim community' was divided into different conflicting
communities. Tensions erupted from rivalries to attain the greatest
prestige: in what symbolic centre should one build the mosque – Lisbon
or the 'province' of Mozambique? Where was the centre of local Islamic
communities: the Island of Mozambique or Lourenço Marques? The
passage of Valy Mamede through Mozambique had the effect of turning
tensions among Muslims into an open conflict.

Therefore, in an atmosphere charged with imagined menaces of pan-
Islamic domination, identity competition evolved around the symbolic
locus of power, that is, the very idea of a centre from which power should
irradiate. Valy Mamede's aspiration to occupy such a place, even with the
supervision of Portuguese authorities, seems to have crossed his mind if
we are to believe what he wrote in a letter sent on 3 July 1970 to Silva
Cunha, the Overseas Minister.[20]

> [...] I underline the need for creating ever closer links between the
> Islamic Community of Lisbon and those in the Portuguese Territo-
> ry (with the purpose of forming a Federation of Communities whose
> headquarters must be Lisbon), with the indirect support of the
> Overseas Ministry. I want to stress that, in this field and if it is helped
> and understood in its aims, the Islamic Community of Lisbon may
> play a great role in national life, especially in the Provinces of
> Mozambique and Guinea, and always for the good of the Nation.

These propositions confirmed the worst apprehensions of the authorities
regarding Valy Mamede's organisation. The governance of Islam they
were planning would not tolerate any Muslim centres that could dispute
the control of *local* communities by *local* Portuguese authorities – closely
articulated with the core sites of power in Lisbon. Thus, in the abovemen-
tioned report, Monteiro stated the need for limiting the scale on which
the ICL could deploy its activities.

> It seems to me fruitful and necessary that Mr. Suleiman Valy
> Mamede should be warned by the authorities (and that the statutes
> to the Islamic Community of Lisbon should be confined in the fol-
> lowing sense) that his activities as president of that organisation are
> to be limited *only* to Lisbon; for, in fact, the Community is called [...]
> 'Islamic *of Lisbon*'.

This advice would dictate the line of behaviour that the Portuguese authorities would take in relation to Valy Mamede.[21] As early as 11 July, a political police report echoed Monteiro's strategy.

> It is thought that the coming of this visitor [Valy Mamede] had the purpose of congregating all Muslims around an ISLAMITE ASSOCIATION for the entire Portuguese territory.
>
> The best policy seems to be to counteract such unification, because of the danger that Islamism may present if one day it becomes a homogenous whole. While divided, its power is diminished.[22]

Such a comment is revealing of a strategy based on the motto 'divide and rule' that the colonial dictatorship applied to Islam. At the same time, it reflects all the anxieties caused by the bogeyman of a transnational Islamic union. What is remarkable in these observations written by a political police agent is that they *expressly* dealt with Muslims – that is, with an abstract and fantasised Islam. The Portuguese authorities were not merely trying to hinder any possible connection between Islam and the Frelimo. Although that aim loomed high on the horizon of Portuguese rulers, they were not simply waging a policy to fight 'subversion' in a colonialist-Salazarist sense. Above all, they sought to circumvent an 'excessive' visibility of Islam, lest it emerge as a 'spiritual force' to reckon with. They did not want it to become a 'homogenous whole', a 'single structure, homogenous, subjected to a single leader'.[23] In their mind, Muslims could be invested with the power that only 'homogeneity' could give, one of a threatening phallic wholeness. To avoid this, a necessary castration was in order. It would disendow the enemy of his potency: 'While divided, its power is diminished'.

Within the colonial frame, a 'Portuguese Islam' was not to be found inside the Portuguese metropolis but abroad, in the overseas possessions of Guinea-Bissau and Mozambique. Nevertheless, to promote such a controlled, supervised version of Islam, Valy Mamede was definitely not the man. First of all, he did not have connections to the local Muslim communities of Guinea and Mozambique that were strong enough to give him ascendancy over them. Therefore, his activities in Mozambique could not be taken as leverage for Portuguese power. On the contrary, they were seen as a liability. That, of course, did not prevent him from trying to gain some influence in northern Mozambique, namely by appointing representatives of the ICL who were a source of unease both to the colonial authorities and the Mozambican Muslims.[24]

It is rather significant to find out that the abovementioned issue of an Islamic centre was raised in the Portuguese colonial frame with quite the same terms that were used by French authorities in West Africa. Since both read African Islamic identities through the lenses of a so-called *Islam*

noir, both the French and the Portuguese tried to shield a more 'pliable' 'black Islam' from foreign and potentially anti-colonial influences coming from East Africa, India, South Africa and the Arab world (Harrison 1988: 124-125; Bonate 2007: 196-197). As Bonate put it, in the Portuguese case this meant to create 'a centralised and state-sponsored Islamic organisation, a local centre of religious authority, independent and autonomous of the centres of Islam abroad'. This aim was supposed to be partly accomplished through a device tailored by Monteiro to give Portuguese authorities an alternative to the centralist project of Valy Mamede and his Islamic Community of Lisbon. This device was nothing but the *ijma*,[25] a designation later replaced by the Concelho de Notaveis ('council of notables'), an Islamic organ to be created in Mozambique, composed of some 21 to 23 well-known figures chosen among the local Muslim hierarchy. Supposedly confined to religious affairs, 'endowed with infallibility to express the will of the community (umma) in matters of faith', the *ijma* would be, however, destined to play a much more secular role, for, according to Monteiro, the candidates to its membership were those 'who really mobilised the million of Muslims living in Mozambique'.[26] But, beyond its particular potential for co-opting Muslims in the war against the liberation movement, the *ijma* should also be aimed against Valy Mamede's pretensions, 'to whom this organ is not convenient, because it would collide with his project of "a Federation of Communities whose headquarters must be Lisbon" [...] with him as its obviously most prominent exponent'. As a rival centre, despite its strictly local sphere of action, the *ijma* was thus conceived to undermine all attempts at unification of the Islamic communities that took Lisbon as a global 'Portuguese' centre.

11.3   Post-colonial epilogue

This imagination of the centre, immersed as it was in an identity competition, suffered an unexpected dislocation when the revolution of 25 April 1974 broke out, forcing Valy Mamede and the ICL to radically reformulate their self-image. Now they had to act in a context that reflected the reconfiguration of what used to be conceived as 'Portuguese territory'. Overnight, Valy Mamede changed his views. He suddenly seemed quite aware that any project of federating Islam in Portuguese-speaking countries was completely out of the question. In those euphoric days, he quickly emerged as a voice favouring the independence of the former colonies, namely Mozambique, with a rhetoric that was on the extreme opposite of what he had stood for in the last years before the revolution.

> I am, naturally, and in accordance to the Universal Declaration of the Rights of Man, in favour of the full emancipation of all peoples,

because this inalienable right cannot be exclusive to Europeans, or those from other continents, who fought some years ago for their complete liberation. It is necessary for an independent Mozambique to finally arise, and that the interests of all Mozambicans, whether Black, Asian, European or *Mestizo*, and followers of all faiths, are respected, for only this way will we have a truly independent Mozambique, in which its children will never feel alien.[27]

The change of tone could not be more complete. Overlooking his own ambiguous relationship with the colonialist dictatorship, Valy Mamede radicalised the indictments against the former Portuguese regime, relating it to the conflict between Zionism and the Arab world. Suddenly, the whole geopolitical map went through a dramatic displacement. There no longer was an empire in which 'Portuguese' Muslims had to assert their presence among hostile Christians. Or, in other words, there no longer was a trans-European territory to give 'metropolitan' Muslims a numerical dimension that would put them on a par with Catholic people, within the logic of identity competition. The new reality required new geopolitical alignments. From now on, Muslims living in Portugal – who were not necessarily Portuguese – would claim an identity affinity with Arabs, namely in the struggle against Israel. This would also allow for a definition of the post-colonial attitude of the ICL in relation both to a 'fascist' and a 'democratic' Portugal. Note in the following excerpt how quickly Valy Mamede adopted the new rhetoric of the April revolution.

> Portugal, during the fascist regime, was undeniably the spiritual ally of Zionism, even though paradoxically it had not recognised the State of Israel.
>
> The fascist regime served imperialism through Zionism, not only by the media, which in unison repeated the lessons they received, but also by yielding national sovereignty [...].
>
> On the other hand, Arab countries were considered tenacious enemies of the Portuguese government, as they openly supported the liberation struggle of the Portuguese colonies and welcomed nationalist movements in their countries [...].
>
> To Afro-Arab solidarity, the Portuguese fascist rulers answered with Luso-Zionist solidarity. (Mamede 1975: 6-7)

After the 'normalisation' of democracy in Portugal, the ICL retained a critical mood that, in terms of identity and symbolic boundaries, viewed Portugal as an opponent of the Arab world. Reflecting the opinions of that association's leaders, an article in the newspaper *Expresso* reported the following:

> The initiatives Portugal took to approach the Arab world have been
> fuelled by obsessive concerns in getting immediate economic gains,
> almost entirely neglecting cultural factors and the understanding of
> the specificity of the Muslim civilisation, something to which
> Muslims are particularly sensitive. Portugal suddenly burst onto the
> scene with an excessive greed for petrodollars, without offering any
> compensation; furthermore, it pretended to serve as a 'bridge' be-
> tween Europe and the Arab world, and as a purveyor of technology
> and personnel, which, according to people close to the Islamic
> Community of Lisbon, revealed a weak knowledge of what, in this
> area, is currently happening in Arab countries [...].[28]

Under this accusing stance, Muslims living in Portugal were, in fact,
negotiating their insertion in a post-colonial environment – resorting to
arguments completely opposed to those they used in order to negotiate
their place within the old regime. Now they needed new forms of empow-
erment that could dispense with an overseas population definitively lost
to Portugal. Such a renewed strategy of identity assertiveness had two
sides: a national (Portuguese) and a transnational one. The former in-
volved, among other things, securing a presence in party politics – that is,
taking an active role in the political system, something not too far from
what Valy Mamede had tried to achieve for his community before the 1974
revolution. This explains why he became a member of the Social-Demo-
cratic Party, using it as a bridge to connect Portugal to some Arab countries
and to compensate for a lack of diplomatic relations. He considered all
other parties to be either marginal in relation to the Muslim issue or
clearly aligned to Israel's cause, an accusation he particularly addressed
to the Socialist Party of Mário Soares.[29] The second side of Valy Mamede's
strategy reinforced a sense of belonging that merged the Muslims settled
in Portugal with a much larger community – not exactly the umma, but
the already mentioned 'Arab world'. This last orientation was conspicuous
in the financial support he was able to get from countries such as Saudi
Arabia, Kuwait, the United Arab Emirates and Libya in order to finally
fulfil one of his most cherished dreams:[30] the construction of a central
mosque in Lisbon. When he died, an obituary published in a Portuguese
newspaper called him 'Mr. Mosque' (Alves 1995) – such was the identifi-
cation between him and that project.

The construction of a Muslim temple in a country ambivalently 'rec-
onciled' with its peripheral position in Europe happened in an atmosphere
completely alien to any debates on Islamic centres. In fact, post-colonial
Islam in Portugal has become decentred, since Muslims are no longer
perceived as overseas Portuguese but simply as citizens with a different
religion. The reinvention of the ICL (Vakil 2004b: 301) represents,
therefore, not only a break with colonialism, but also a downsizing of

identity ambitions. It had begun as an unviable centre for all the Muslim communities settled in the 'Portuguese space' and later turned into a host for immigrants who profess the Islamic religion.[31] In this trajectory, it sums up the way Muslims have been dealt with in recent Portuguese history.

Notes

1   I would like to thank Veit Bader, Annelies Moors and Marcel Maussen for their comments and suggestions that helped me improve this chapter. Liazzat J. K. Bonate also made pertinent remarks that forced me to brush up on some of the historical details of my argument. A very special word of thanks is due to Fernando Amaro Monteiro, who kindly agreed to read this chapter and give all his insightful comments on it, being someone who played a major role in the story that I have tried to unravel.

2   The political police kept two files, one on Valy Mamede (ANTT/PIDE-DGS, SC, Proc. 13.890-SC/CI(2), NT-7700, with 38 sheets) and the other on the ICL (ANTT/PIDE-DGS, SC, Proc. CI(2) 10666, NT-7601, with 55 sheets). There are, however, many other documents spread throughout the files of the Mozambique's Services for Centralisation and Coordination of Information (SCCIM). In an interview, Valy Mamede said that when was trying to establish the ICL he was summoned no less than nineteen times to the political police and eighteen to the civil government of Lisbon (Ferreira 1989: 19R). See also Mamede (1975: 6) and 'Construção da mesquita de Lisboa poderá estimular aproximação entre Portugal e o mundo árabe' in *Expresso* 3 February 1979: 1.

3   The National Archives, CAB 129/28.

4   ANTT/AOS/CO/UL-37, 1.

5   *União Nacional* (National Unity) was the name of the single legal political party under Salazar's regime.

6   ANTT/PIDE-DGS, SC, Proc. 13.890-SC/CI(2), NT-7700, sheet 36.

7   *O Islão: Órgão da Comunidade Islâmica de Lisboa* (bulletin of the ICL) November 1968, No. 2: 12.

8   A statement given for the newspaper article 'Construção de uma mesquita em Lisboa', *República* 7 July 1969: 13. Restelo and Belém are areas in Lisbon, close to the Tagus River, that formed natural harbours from which the Portuguese caravels sailed to their voyages of exploration in the fifteenth century.

9   For the biography of Fernando Amaro Monteiro during his Mozambican stage and an analysis of his activities during the colonial war, see Monteiro (1975, 1989a: 81-84, 1989b, 1993, 2003, 2004: 108-112), Alpers (1999: 179-181), Cahen (2000: 575-577, 581-583), Garcia (2003: 88-90), Vakil (2004a: 28-30) and Macagno (2006: 94-99, 164-166).

10   Information No. 19/70, in ANTT/SCCIM/H/9/2, No. 420, sheets 16-23. Amaro Monteiro wrote this particular report.

11   For this information, see the letter sent from the Overseas Ministry to the Governor General of Mozambique on 26 February 1969 (ANTT/SCCIM/H/9/2, No. 420, sheet 62).

12   Information No. 7/969 (ANTT/SCCIM/H/9/2, No. 420, sheet 55).

13   This had been reported in local newspaper *Diário de Moçambique* (22 February

1969), a clip of which was kept by the SCCIM and annexed to the report that Monteiro wrote (SCCIM/H/9/2, No. 420, sheet 57). The same news could be found in *O Islão: Órgão da Comunidade Islâmica de Lisboa* (bulletin of the ICL) February 1969, No. 3: 23.

14   See ANTT/SCCIM/H/9/2, No. 420, sheets 51-53, and PIDE, order No. 830/69-SR, 24 March 1969, in SCCIM/H/9/2, No. 420, sheet 46.

15   The emphasis is in the original text. In Valy Mamede's bibliography, I could not find a book entitled *Maomé e o Islão* ('*Mohammed and Islam*'). I did find a work with a slightly different title, *Maomé e o Islamismo* ('*Mohammed and Islamism*'), the contents of which do not, however, mention the position referred to by Monteiro.

16   ANTT/SCCIM/H/9/2, No. 420, sheets 58-60.

17   See Information No. 19/70 of the SCCIM, in ANTT/SCCIM/H/9/2, No. 420, sheets 16-23.

18   On all this, see PIDE/Delegation of Mozambique, P.º File 57-A/SR-1, Information No. 1159/70/DI/2/SC, 11 June 1970, classified as 'secret', in IANTT/PIDE-DGS, SC, Proc. 13.890-SC/CI(2), NT-7700, sheets 17-19; Information No. 19/70 of the SCCIM, in ANTT/SCCIM/H/9/2, No. 420, sheets 16-23; account to the Overseas Minister made by the members of the board and the general assembly of the Sunni Mohammedan Association, 25 May 1970, in ANTT/PIDE-DGS, SC, Proc. 13.890-SC/CI(2), NT-7700, sheets 24-25. We may find copies of the same documents in ANTT/PIDE-DGS, SC, Proc. CI(2) 10666, NT-7601. See also Cahen (2000: 578).

19   PIDE/Delegation of Mozambique, P.º 58/SR-1, Information (classified) No. 928/70/DI/2/SC, in Proc. 13.890-SC/CI(2), NT-7700, sheets 28-29. As for the number of Muslims living in Lisbon, the Islamic Community of Lisbon had no more than 25 to 30 members in 1968, the year of its foundation. One of its founding fathers, Abdool Karim Vakil, later recognised how for the occasion of religious festivities they had to seek other Muslims in order to be able to perform the prayers together (Ferreira 1989: 19r). The Portuguese authorities were aware of this situation, as we can see from Monteiro's words in a report sent on 31 July 1970: '... it does not seem that his [Valy Mamede's] community in Lisbon is able to assemble, on Fridays [the holy day of Islam], the number of believers necessary for the celebration of Khotba [public prayer]' (Information No. 19/70, in ANTT/SCCIM/H/9/2, No. 420, sheets 16-23).

20   ANTT/SCCIM/H/9/2, No. 420, sheets 4-6 and 26-28.

21   After being summoned to the Overseas Ministry, Valy Mamede was received on 19 August by Ribeiro da Cunha from the political affairs section of that ministry. The two had a 'long conversation' in which Valy Mamede was forced to accept the narrowing of those activities developed by the ICL. It was agreed that these should not include any actions among the Muslim communities settled in the colonies, namely those who lived in Mozambique (see the secret communication from the Cabinet of Political Affairs of the Overseas Ministry to the Governor General of Mozambique, No. 4162/E-5-15-30, in SCCIM/H/9/2, No. 420, sheet 9). This meeting, however, did not stop the interference of Valy Mamede's organisation upon the Islamic communities in the colonies. From other documents in the political police's file No. 13.890-SC/CI(2), it is easy to conclude that a year after Valy Mamede's visit to Mozambique conflicts still existed between some Mozambican Muslim leaders and delegates from the Islamic Community of Lisbon.

22   Information No. 1159/70/DI/2/SC, in ANTT/PIDE-DGS, SC, Proc. 13.890-SC/
     CI(2), NT-7700, sheet 18.
23   These words can be found in another report from the political police (Order No.
     1406/70/DI/SC, in ANTT/PIDE-DGS, SC, Proc. 13.890-SC/CI(2), NT-7700,
     sheet 16).
24   See, in particular, Order 3683/72/DI/2/SC on 21 October 1972 from the political
     police's branch in Mozambique concerning the activities of Carlos Aires Pereira,
     appointed by the ICL, whose authoritarian demeanour in respect to local Muslim
     dignitaries seemed to replicate the behaviour that Valy Mamede himself had as-
     sumed in his visit to the same regions of Mozambique. Both pretended to act on
     behalf of the Portuguese authorities. ANTT/PIDE-DGS, SC, Proc. 13.890-SC/CI
     (2), sheets 7-9.
25   In the Islamic tradition, *ijma* is not exactly a specific organ. It means the 'consen-
     sus', one of the sources of the sharia. In order to represent the whole umma, that
     consensus must be unanimous, and this can be achieved through the consensus
     attained by Muslim notables with recognised authority in matters of faith (Mon-
     teiro 1972: 18).
26   Information No. 19/70, in ANTT/SCCIM/H/9/2, No. 420, sheets 16-23. The
     following quotation in the chapter is taken from the same document.
27   Interview given to newspaper *Notícias de Lourenço Marques* (24 May 1974) in No.
     12, tomo II, *O Islão*: 21.
28   'Construção da mesquita em Lisboa poderá estimular aproximação entre Portugal
     e o mundo árabe', *Expresso* 3 February 1979: 5.
29   *Expresso* 3 February 1979: 5.
30   Or, as his rivals within the ICL would say, one of his worst obsessions. In 1985,
     conflicts appeared within the association, when a number of members challenged
     the leadership of Valy Mamede. Mussa Omar, a physician who disputed the
     presidency of the ICL, said 'the mosque is not as essential' as Mamede thought it
     to be because 'anyone can pray in their home' (Cabral 1985: 6) – an argument that
     brought back the kind of criticism Valy Mamede had already faced before the
     revolution of 1974. The conflict around the election of the direction of the ICL
     was fought along the lines of division between the Arab countries, with Mamede's
     upholders accusing the members of the opposing list of being loyal to Libya. This
     conflict was so nasty that it led some countries, such as Saudi Arabia and Kuwait,
     to suspend their financial support towards construction of the mosque. As late as
     1989, it was still incomplete (Ferreira 1989: 201).
31   In 1997, the ICL was estimated to include some 20,000 Muslims, most of them
     (14,000 to 15,000) coming from India, Pakistan, Bangladesh and Mozambique.
     The rest came from Guinea-Bissau (some 5,000) and the Maghreb (some 1,000)
     (Bastos & Bastos 1999: 116). According to the ICL, there are now approximately
     40,000 Muslims living in Portugal (see http://www.comunidadeislamica.p-
     t/02b3.php?nivel_1=2&nivel_2=22&nivel_3=223).

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Archives

ANTT – Arquivo Nacional da Torre do Tombo (National Archive of the Tombo Tower).

AOS – Arquivos de Oliveira Salazar (Archives of Oliveira Salazar).

PIDE-DGS – Polícia Internacional de Defesa do Estado/Direcção Geral de Segurança (International Police for Defence of the State/General Command for Security).

SCCIM – Serviços de Centralização e Coordenação de Informações de Moçambique (Mozambique Services for Centralisation and Coordination of Information.

Chapter 12
Conclusion

Veit Bader and Marcel Maussen

The governance perspective as set out in our introduction can help to complement and alter government approaches that focus too much on formal policies and regulations and look at conflicts and encounters primarily at the level of the state. In these concluding remarks, we elaborate on five analytically distinct but overlapping foci of the governance perspective on colonial and post-colonial regulation of Islam. We use elements from the various contributions in this volume to demonstrate how and why this pre-theoretical framing helps to observe and analyse our empirical findings more adequately.

12.1   Questionable 'stateness' of colonial government and transnationalism

In our analysis of the authoritative regulation of Islam in colonial contexts, we need to be aware of the different forms of political power, institutionalised and otherwise. At the same time, we should not assume that there is a modern state in the sense commonly associated with stable and minimally coherent government, and we should keep looking at the transnational dimension of organised power and authority.

Despite the fact that Portugal's presence in Africa lasted for almost 400 years, Bonate (all author citations refer to their contributions in this volume unless specified otherwise) shows that it was not until the twentieth century that 'a modern colonial regime was established' with the goal of transforming Mozambican Muslims into colonial subjects. From 1895 onward, the Portuguese undertook failed campaigns of 'effective occupation' – the Indigenato system, attempts to 'Portugalise' or 'nationalise' colonial subjects, and to control and domesticise *Islão negro* – assuming full administrative and political control over the conquered territories. Until the late 1960s, however, Portuguese rule had no distinctively Muslim or Islam-oriented policies.

Leezenberg and Kanie not only point out the conceptual problems of applying 'state' to 'pre-modern polities' such as the Ottoman Empire (for the sultanates before British conquest in Malaysia, see also Meerschaut & Gutwirth this volume), they also demonstrate that British colonial domi-

nance in Iraq 'was relatively brief, erratic and by no means all-determining'.

Clancy-Smith shows that former practices, policies, ways of doing things and social arrangements of the Ottoman Regency in Tunisia from 1881 onward continued to have an impact on the French colonial regime. She questions the 'very notion of a fixed and stable "colonial state"' and proposes a disaggregated analysis of 'colonialism continually in the making' in opposition to the 'the rhetoric of empire' that still 'overwhelms "facts on the ground"'. She demonstrates how patterns of governance, views of Islam and policies and practices aimed at Muslims were formed in the interactions between protectorate authorities, indigenous Tunisians, Catholic missionaries and non-French Italian/Mediterranean resident communities. A detailed look at contestations in the domains of schooling and religious properties shows different alliances and balances of power, some of which went back to pre-colonial configurations. For example, Catholic missionary orders had been protégés of the Husaynid Dynasty and, when their antipathy towards the colonial regime and the metropole grew (after the French disestablishment laws of 1901 and 1905), they could refresh positive relationships with Muslim princes and communities.

Hence, more often than not, colonial administration was weak, absent, superficial or solely depended on the deployment of brute force. Post-colonial government can also be extremely weak, and can be primarily concerned with attempts to uphold a symbolic façade of power. Daechsel's case study on a project for slum clearing and urban rehabilitation in Pakistan demonstrates how there were strong continuities with colonial governmental practices and how, on the other hand, the post-colonial state had few instruments and power to see to the realisation of the project objectives. Local residents could shape their own institutions at the neighbourhood level and resist the attempts of urban planners to use architectural norms and careful planning to reshape community life. Yet, 'this is not to say that the Pakistani state was not powerful as such ... The case of Korangi demonstrates that it was simply not powerful in the way that states of twentieth-century Europe are powerful'. In this regard, comparisons should be fair instead of comparing models – a 'Western' 'reified mega-state' ('an integrated Foucauldian package that combines sovereign, disciplinary and security power to maximum effect') – to post-colonial 'muddle'.

12.2   Heterogeneity, incoherence and inconsistencies of colonial policies

In order to understand colonial governance, we need to work with a very loose concept of public policies and analyse the heterogeneity, incoherence

and inconsistency of colonial policies and strategies (in other words, the 'contingencies' and even 'madness' of policies). As Clancy-Smith observes, there were very few 'unified imperial policies'. Rather, there were 'templates of governance' that can be reconstructed ex post and located in the stream of interventions and adaptations that characterised 'colonialism continually in the making'. The case of Tunisia demonstrates how the French pursued a 'doubling strategy', maintaining Tunisian offices and officials that were already in place, imitating earlier Husaynid systems of administration and employing Arabic systematically as a junior partner to French in the colonial administration. As a result, instead of colonial rule installing a new and consistent governmental order, a mixed and multi-centric legal and administrative system emerged.

Leezenberg and Kanie explain that there was no single, coherent vision guiding British governance of Iraq because of rivalries between various sources of colonial policy located in Delhi, Cairo and London. They characterise local British policies as 'haphazard, contradictory and based on conventional stereotypes' rather than as based on empirical data and rational policymaking processes. A similar point is made in Bonate's discussion of the ways in which the Portuguese used an understanding of African Islam that was similar to that of the French, claiming that 'black Islam' (*Islam noir*, *Islão negro*) was syncretistic in nature and that African Muslims were only superficially religious. Nonetheless, whereas the French believed that Sufism could be equated with *Islam noir* and sought to set up strategies of co-opting and institutionalising its main precepts and proponents, the Portuguese had far more limited knowledge of Islam and were unable to discern or understand Sufism and Sufi orders for a long time. The development of Portuguese governance vis-à-vis Islam was hardly the result of concerted long-term strategies, but rather of general colonial legal regulations such as labour and administration laws and the Indigenato system. The idea of creating a domesticated, nationalised form of Islam in Mozambique developed relatively late,[1] in the late 1960s, in the context of attempts to combat the liberation movements.

Obviously, as Moors observes, 'the governance of Islam (and its effects) depended on length, depth and the general nature of colonial involvement, on the ways in which colonisers and colonised populations engaged with religion and on the particular historical moment'. In this regard, it cannot even be expected that colonial administrations could apply context-independent, consistent policies and strategies. Rather, like the land-based empires, they exhibit shifting mixes of at least four different strategies towards ethno-religious communities: 'toleration, persecution, assimilation, and expulsion' (Barkey 2008: 21). Often, colonial administrations claimed and also practised toleration or 'non-interference with the "customs" of the local population' (Moors; for Mozambique, see also Bonate; for Sudan, Jeppie; for India, Devji; for Malaysia, Meerschaut & Gutwirth),

but in other contexts or times they did not hesitate to massively interfere, persecute, or assimilate, as Moors has shown with regard to dress. At times, the shifts and mixes of policies can be a sign of 'madness', but they can also be a prudent devise of flexible adaptation.

12.3   Dilemmas of institutionalising Islam in colonial contexts

Three points are highlighted when we analyse the governance of Islam, particularly the institutionalisation of Islam as top-down and bottom-up processes, as the changing result of contentious collective actions of heterogeneous colonial administrations (external governance), internally heterogeneous Muslim populations (internal governance) and other relevant collective actors (such as the Catholic Church, settlers, national liberation movements and organisations such as the Indian Congress or Frelimo). These points are: 1) processes of categorisation and self-categorisation of Muslims, Islam(s); 2) dilemmas of institutionalisation for colonial administrations; and 3) dilemmas of institutionalisation for Muslims.

12.3.1   *Processes of categorisation and self-categorisation of Muslims*

If, or as soon as, colonial administrations move beyond neglect towards explicit non-interference or toleration of colonised populations that show a more or less high degree of heterogeneity in terms of class, status and regional, linguistic, ethnic and religious cultural diversity, they explicitly start to categorise them. The categories appear as 'ethnic' or 'religious' groups or communities and – most often as a response – colonised populations define themselves in similar terms. That and how categories of Muslims or Islam have been produced in the course of contestations between colonisers and the colonised is analysed by Bonate for Mozambique. Here the Muslim population, broadly speaking, 'was comprised of three major groups – Africans, the mixed-race descendants of the earlier Indian immigrants and Indians' practising different varieties of Islam (Sunni, Sufi, Deobandi and Wahabi) and building their own associations and organisations partly in response and rivalry to each other and to the divergent policies of the colonial administration (see following section).

Devji analyses the emergence of the Muslim 'community' 'as a direct consequence of colonial rule', particularly to Anglo-Mohammedan law and to the 1909 law (which introduced limited franchise to India, with legislative seats being reserved along religious lines). With the destruction of royal and aristocratic Muslim rulers, religious ones have displaced indigenous sources of profane authority. This separation from political authority made Muslims a religious entity in the modern sense. The new

name 'qawm' (meaning something like 'tribe' or 'people') eventually be-
came an equivalent for 'nation'. The *sharif*, the 'wellborn' in Northern
India – Urdu-speaking Sunni clerics and their relatives among the laity
sharing the same class position of minor landholders, administrators and
bureaucrats – 'set out to recast Islam in their own image, thus lending the
qawm some substance as an ethnic category'. The Aligarhists defined the
qawm as a non-political entity replacing older terms for governance such
as *siyasat*, *hukumat* and *saltanat*. The story of the Aligargh Movement tells
the eventual conflictive replacement of this non-political, elitist, non-
representative and parochial ethos-based *sharif* association by a political,
more representative, all-Indian organisation of Muslims, the Muslim
League, in rivalry and competition with the Indian National Congress.
Leezenberg and Kanie show that by the late nineteenth and early twentieth
centuries, both religious and ethnic or national identities were in the
process of being created and far from consolidated. Hence, 'one should
beware of prematurely reifying labels such as "Sunni" or "Shiite", "Arab"
or "Kurd" into social realities'; sectarian intermarriages and tribes con-
sisting of both Sunni and Shiite members were quite common in Iraq.
Whereas British communalist policies in India 'solidified sectarian differ-
ences between Muslims and Hindus into politically significant commu-
nalist identities', in mandate Iraq 'it was less communalist differences
between religious defined groups or ethnic differences between Arabs,
Kurds and others, than a strict, and politically decisive, cleavage between
rural and urban or tribal and non-tribal social groups that informed British
policy' (see p. 101): 'tribal communalism'. In both cases, however, the
British did not and could not 'create ethnicities' or religions 'out of
nothing',[2] and colonised people also used and transformed existing cate-
gorisations and self-definitions in associating, organising, mobilising and
fighting.

12.3.2 Dilemmas of institutionalisation of Islam for colonial administrations

External governance of Islam by internally heterogeneous colonial
administrations and their various strategies in rivalry with local factions
and other actors is a complex, highly contextual process. Still, colonial
administrations face some general dilemmas concerning institutionalising
Islam:[3] problems of recognition (to include, exclude or religionise),
representativity, cooptation and delegitimation, ironies and backfiring
strategies ('communalising' and the creation of rivalling and fighting
'religious' or 'ethnic' groups and organisations, attempts to create a
'moderate' or 'civilised' Islam resulting in radicalisation, etc.).

Bonate shows that the Portuguese, like other colonial powers, perceived
a 'true' and 'orthodox' Islam to be 'Arabic' or 'Asian', while *Islão negro* in

northern Mozambique was 'syncretic', 'mixed with gross superstitions'. Unlike the French, however, they did not discern or understand Sufism and did not acknowledge the two Sufi orders of the twentieth century in Mozambique, the Shadhuliyya and the Qadiriyya. Only after the failure of attempts to 'Portugalise' Muslims and to 'domesticate' *Islão negro* by isolating it from the 'foreign brands' of Islam – e.g. by exploring the possibility of a central command of the turuq (each *tariqa* turned out to lead a quasi-autonomous existence not willing to obey) – they tried to create a centralised Islamic organisation from scratch, first called *ijma*, later the Concelho de Notaveis ('council of the notables'), which also did not materialise. The internal, intra-Muslim governance of Islam – mainly by African and mixed-race Muslims engaged in an intensive rivalry and competition over Islamic authority, first that of Sufi orders and later over the definition of Islamic 'orthodoxy' that pitted Sufis against Salafis – 'remained largely outside the radar for most of the twentieth century'. Only in 1968 did they show a more positive attitude towards Islam and Muslims by building and restoring mosques and sponsoring hajj – at this point, they could 'take advantage of the internal Muslim rivalry for the sake of counteracting the encroaching independence movements'.

As Jeppie shows, the British were extremely uncertain about their dominance of the Sudan. One way of fostering acceptance of British hegemony was to make alliance with influential ulama. 'Therefore, organising the ulama into an identifiable, accountable body and ensuring their reproduction into collaborative qadis into the future was a primary task of the British colonial authorities', but it required them 'to be clear about who spoke for the ulama. The numerous Sufi *turuq* and their sheikhs appeared to be far too diffuse, and thus difficult to bring into a reliable alliance' (see p. 51). Hence, they focused on the education and training of a new cohort of ulama and qadis to work in the new colonial sharia legal system. The new Al-Maahad Al-Ilmi in Obdurman was meant to play an important role in this strategy. By offering Islamic education and judicial training, 'they were possibly giving the Sudan more of a deeper and specific kind of Islamic legal consciousness than even under the Mahdiyyah'. But then they backtracked: 'The beginnings of modern nationalist resistance mobilisations made them attempt to bring less "Islamic" and more "local" elements into much greater prominence ... But they could not roll back the Islamic educational process at Al-Maahad Al-Ilmi, the academic institution that they themselves had started' (see p. 61).

Machaqueiro's case study on the leader of the Islamic Community of Lisbon, Valy Mamede, demonstrates how competing strategies to organise Muslims in the Portuguese colonies collided. Valy Mamede pursued a strategy of uniting Muslims in order to give Islam a comparable status as Catholicism within the Portuguese colonial order and to get for it a symbolic and institutional centre in Lisbon. Portuguese authorities,

however, feared such a union of all Muslims and preferred to co-opt local Muslim leaders in order to create allies to local Portuguese authorities. Ultimately, Mozambican Muslim leaders rejected the self-acclaimed position of Valy Mamede and sought to maintain their own autonomous position.

Devji discusses how British rule destroyed royal and aristocratic forms of Muslim authority, triggering a wider competition about defining the Muslim community and its leadership in India in the process. The leaders of the reformist and pro-British Aligharhist Movement saw their relation to the Muslim community as purely didactic, meaning they should give form to it via resolutions and laws. Devji demonstrates how different understandings of leadership existed: the Aligarhists considered their leadership to be a kind of moral obligation, whereas the British idea was that they were representative leaders whose authority was based on a consensual relationship with the *qawm*. The Mohammedan Educational Conference, a voluntary association based on the individual autonomous will, acted in its early phase as a refuge for practices such as poetic recitation. This 'early *sharif* organisation' – presuming a special relationship between Christians (the British) and Muslims but excluding Hindus – did not allow the conception of a realistic Hindu-Muslim relationship; it has been put under pressure 'when groups such as the Indian National Congress and non-*sharif* societies across the country began claiming to speak for Muslims'. Then, 'representation – or at least a representative character – suddenly became a major issue and the gentry's *qawm* was destroyed forever' (see p. 115). In October 1901, young and old members of Aligarh, all from the north, tried to found an All-India Mohammedan Political Association, but the desire to preserve a North Indian *qawm* informed the reformists' ambivalent relations with other Muslim organisations. In 1906, as a response to the Morley-Minto Reforms, something like a Muslim political party had to be formed and Aligarh's leaders petitioned their rulers for the right to become political, granted by the Viceroy. The policy of separate electorates not only 'effectively counterposed the Muslim community to congress' representative claims', it also led to a new, non-Aligarhist Muslim elite. Aga Khan, a Shia leader from Bombay, broke with Aligarh's parochialism, leading to a new kind of community under the auspices of the Muslim League, a political nation by the end of the 1930s, to partition and to the declaration of Pakistan as the world's first Islamic Republic.

Malik argues that by banning the *Angare* book because it was blasphemous and offensive to Muslims, the British entered into an alliance with the ulama to censor and control Muslim dissent, thereby granting the ulama the status of representatives of the Muslim population at large. This alliance between colonial authorities and patriarchal male clergy served to simultaneously suppress criticism of British rule and of male

religious leaders. In contemporary Britain, one finds similar attempts to grant 'state recognition' to selected Muslim representative organisations that are willing to 'agree with liberal values' and are thus positioned as gate-keepers of the British Muslim community.

12.3.3 Dilemmas of institutionalisation for Muslims

The dilemmas faced by colonial administration are mirrored by those for ethno-religious groups. As in 'the West', they face the trade-off between internal autonomy and both privileges and limited political influence. Colonial administrators more or less openly intervene in organisational and ideological matters, playing an active role in the selection of 'moderate', 'responsible' and 'representative' leaders and organisations, excluding and marginalising others. By doing so, they provide material and symbolic resources and relations and networks in the rivalry between competing leaders and organisations of colonised people (see Bonate and Meerschaut & Gutwirth). The price for privileges and some political influence may be increasing isolation and delegitimation of the moderates (traitors or puppets of the colonial regime; for Aligarhists, see Devji) and loss of initiative, motivation and mobilisation powers. Yet cooperating leaders and recognised and subsidised organisations use these resources not only in the fight against external competitors, but also inside their associations or organisations (for 'learned Sufi' scholars and qadis versus unruly and illegible Sufi *turuq*, see Bonate and Jeppie; for the use of British law and jurisprudence as powerful external resources by the conservative ulama against dissident Muslims in India, see Malik; for the rivalling law schools and Muslim lawyers in Malaysia, see Meerschaut & Gutwirth).

In sum, the outcome of these dilemmatic conflicting strategies and actions of colonial administrations, ethno-religious elites and organisations of internally heterogeneous colonised people and other relevant collective actors is not predetermined. Rather, it is the structured result of 'encounters' or 'interactions' under conditions of power asymmetries, as is made quite clear in the contributions by Clancy-Smith and by Leezenberg and Kanie. The latter focus on local forms of agency and situate different kinds of interactions in the context of the specific form of colonial rule that characterised the British mandate in Iraq (1920-1932). Like many other contributors in this volume, they emphasise the role of power struggles and the contingent nature of the outcomes of the various encounters. Their discussion of the various roles played by Iraq's Shiite clergy, for example, shows how they emerged as political leaders in the wake of the Ottoman constitutional revolution (1906) and how, later on, British legal reforms and political manoeuvring by King Faysal and successive Iraqi cabinets resulted in the isolation of the Shiite clergy.

12.4   Multiple fields and institutions and various practices of governance

As a consequence of the first two points, the shaping of opportunities and obstacles for Islam and Muslim life requires an analysis of a multiplicity of fields, domains and institutions and a variety of practices of governance, including institutionalised forms of surveillance and monitoring of indigenous society, the management of space and the constructed environment, the steering of local legal-institutional arrangements and practices and regulations and ideological assumptions in all kinds of fields or domains (hygiene, education, dress, nation-building).

The focus on formal, institutionalised Islam policy is too narrow if our aim is to analyse the structuring of opportunities for Muslim life. As Bonate observes, Portuguese colonial governance in Mozambique shaped these opportunities long before any kind of intentional Muslim policy existed. In his contribution, Daechsel analyses the way in which ordering space and creating an urban environment that provided for 'authentic' Muslim community life, including the building of neighbourhood mosques, were tools of governance in post-colonial Pakistan, as well as a site of contestation of official policy goals. Moors has done this in a contextual analysis of gendered dress codes, and Jeppie with regard to higher Muslim education. All these fields have their own 'logics' that fracture general colonial politics and policy dilemmas. This holds true for the field of law and jurisprudence, in particular. Malaysian law has always been a hybrid legal system, as is shown by Meerschaut and Gutwirth: in pre-colonial times of indigenous adat and of a rudimentary Islamic religious structure at a village level in Malayan sultanates; in colonial times of English law, of a systematised Islamic law and courts run by a Islamic religious bureaucracy and of non-institutionalised adat; and in post-colonial times by a constitutionally recognised legal pluralism of parallel secular, Islamic and adat family law. British 'indirect rule' in India is famous for creating and institutionalising Islamic codified family law, referred to by Devji and Malik (see extensively Wilson 2008; Menski 2000). The Tunisian protectorate's legal system has been 'multi-centric in the extreme' (see p. 75), combining Islamic law, beylical law, capitulary concessions, consular courts, codes and practices and international treaty law, which made it difficult and tricky, to say the least, to decide cases of personal law as well as of property law. Even in French colonies, Benton's (2002) thesis that colonial states have been characterised by a historical movement from truly plural legal orders to state-dominated legal orders has to be seriously qualified. The Tunisian examples indicate that the colonial state was unable to completely dismantle the culture of legal pluralism created by 'people in motion' in the pre-colonial and colonial eras. Leezenberg and Kanie remind us (see also Emon 2006) that codifi-

cation and 'etatisation' of Islamic laws not only took place under the auspices of colonial powers, but has been a central part of the Tanzimat Reforms in the Ottoman Empire and Egypt (see p. 94ff). The Mecelle code was valid in Iraq until 1959 (see also p. 104 for the replacement of Ottoman jurisprudence in Iraq and Egypt by a system of mixed courts rather than of purely state-based courts as in Turkey).

This is not the place to engage in debates on weak or strong legal pluralism in colonies, so we confine ourselves to three issues. 1) Contrary to the widespread assumption that legal pluralism would be a special characteristic of British (or Dutch) 'indirect rule', we can now see clearly that a certain, sometimes fairly high degree of pluralism can be found in all colonial regimes – and, by the way, also in self-stylised 'monist' 'modern Western, secular' legal systems, as all empirically interested legal scholars should know by now. 2) Contrary to the legal illusions of Austinian or Kelsenian 'positivists', the law is always uncertain. Yet, in highly pluralist legal systems not only the 'law is uncertain', but also uncertain and very much contested is which of the valid laws applies.[4] 3) Strong legal pluralism clearly involves serious 'conflicts of laws'. Meerschaut and Gutwirth make this plain for the recent developments in Malaysia. Speaking normatively:

> The very thin line that exists between the accommodation and imposition of differences makes judicial review and the role of independent courts so important... The most serious problem seems to be that the courts seized by Muslim dissidents do not show any sensitivity towards the rule of law, nor do they make use of the possibility of constitutional review... They are even ruling against the core of a constitutional state upholding the rule of law, where the right to leave one's religion is a necessary and minimum condition. Both the Islamic and civil judges are not showing an active commitment to the Constitution and international human rights. From our analysis of case law (Meerschaut 2006: 293-297), it appears that the Malaysian courts are not, in fact, actually reviewing any state law provisions that conflict with equality or other fundamental rights enshrined in the Constitution. And when a review is carried out, the courts generally interpret the fundamental rights and freedoms very narrowly. (see p. 189)

The syncretic legal system of Malaysia is an institutionally imperfect system, indeed, '[n]ot because it is a pluralistic legal system in which religious and other law is recognised, but because the rule of law is seen as a competitive value system rather than as a basic condition' (see p. 189).

12.5   Travelling of colonial models, policies and ideas

Colonial models, policies and related ideas travelled across time and space, both during the age of imperialism and in the post-colonial period. Templates of governance that were developed 'elsewhere' shaped strategies pursued locally. We should focus on distinguishing more substantial similarities from more shallow ones, explore whether similarities in ideas and approaches indeed point in the direction of relations of cause and effect and, finally, describe the processes and mechanisms that generate these relations of influence across space and time. The concept of 'diffusion', which has been theorised in social movement literature, is valuable to analyse these mechanisms and processes.

From the various contributions, it is clear that there are striking similarities in forms of colonial governance of Islam that could become starting points for comparative studies. Not altogether surprisingly, we find the returning motive of a dichotomous mapping of Islam and Muslims in terms of 'good' and 'bad' Islam. In the literature, this motive has been signalled repeatedly, for example, for French colonialism in Algeria (Lorcin 1995), in West Africa (Harrison 1988) and in relation to Christiaan Snouck Hurgronje's distinction between Islam as a religion and Islam as a political doctrine (Benda 1958). In this volume, we find similar oppositions of 'desirable and undesirable forms of Islam' (Moors), Arab versus African, Sufi versus Wahabi. It seems interesting to further compare the ways in which this dichotomous mapping developed differently in the context of imperial policies and to explore how it informed attempts to govern Islam. These attempts included limiting the transnational nature of Islam, for example, by shielding the local forms from Arab influences and by domesticating or creating national forms of Islam. Colonial authorities established alliances with specific ethnic and religious groups, such as Berbers in Algeria and Indians in Mozambique (Bonate), as they set up alternative, state-controlled educational institutions (Jeppie). In the post-colonial period, the 'secular' nation-state was often represented as a modern alternative to Islam-based models of political organisation. We need to be precise, especially with regard to the exploration of continuities and ruptures across larger time frames.

In our view, the way to proceed would be to begin by identifying similarities – as well as the absence of similarities where we would have reason to expect them – to then investigate their nature and depth and, finally, to raise the relevant explanatory questions. A next step would be to investigate the mechanisms of diffusion that may have caused similarities across time and space. One could, firstly, explore relatively straightforward processes of 'policy learning', in which ways of doing things, ideas, models and institutional templates are more or less

deliberately and consciously introduced in new contexts. These processes are facilitated by the rotation of colonial administrators between colonies. As Jeppie argues, 'colonial practice travelled great distances, over time and space'. He provides the example of Lord Lugard, who had a career in colonial India before his arrival in East Africa, and used experiences in South and South-East Asia as a 'working model' to integrate the local systems of rule to be their own instruments of rule in the Sudan (see pp. 60ff). One can analyse processes in which there occurs an intentional process of 'mimicking of policies' and explore how the respective approaches are changed in the process (as is demonstrated by Bonate's discussion of French and Portuguese policies vis-à-vis 'black Islam'). One can discuss, as Clancy-Smith does, whether Tunisia furnished 'templates of governance' for Morocco or Syria and even for British-ruled Egypt. Or one can compare British-mandate Iraq with French-mandate Syria, or with other British colonies such as Egypt and India. Leezenberg and Kanie rightly highlight that 'one should not overemphasise the coherence or hegemony of any one vision or policy', also given the fact that among British policymakers for and in Iraq, there were often fierce rivalries (see p. 104) between the Delhi-based India Office, the Cairo-based Arab Bureau and the political office of the India Office in London. Conversely, one can analyse attempts to avoid the mimicking of specific policies, for example when the French used their Algerian experiences as a 'counter model' or an 'abject lesson in what not to do' for their approaches in Tunisia (for Louis Machuel, see Clancy-Smith see p. 68).

Secondly, mechanisms of diffusion can also be institutional in nature. Meerschaut and Gutwirth's detailed analysis of transformations of legal arrangements in Malaysia is an example of an attempt to identify institutional mechanisms of continuities and changes across time. A focus on institutional changes, for example, in the legal and administrative sphere, can also reveal continuities between pre-colonial and colonial forms of governance. Jeppie's contribution illustrates how the British introduced an institute for Islamic educational and legal training that in part built on pre-existing native institutions and that they ultimately could not control.

Thirdly, one could analyse cultural mechanisms of diffusion, notably in discourse. Some of the contributions in this volume draw upon a Foucauldian 'genealogical approach' in view of identifying broader mechanisms of diffusion over a larger period of time. Leezenberg and Kanie trace conceptual changes relating to notions like religion, the state and society, and the way these changes work together with reforms of institutions and practices. Devji explores how understanding of the Muslim community and the nation changed in India in reaction to British colonial interventions. Moors examines how the present-day governance of Islamic dress 'resonates with' colonial forms of governance. Finally,

Malik argues that a similar will to regulate Muslim subjectivity informs British colonial and post-colonial attitudes and practices of governance of Muslims. The power of this approach is based, on the one hand, on tactical alliances between British rulers and selected Muslim representatives (both in colonial and in contemporary British society) and, on the other, on the strength of the discourses that sustain it. Actually, those who challenge these practices of restriction of Muslim self-expression often reproduce prevailing political concepts and categories. Genuine cultural resistance would require, so Malik argues, forms of political engagement and institutional frameworks that enable subdominant voices to change the terms of discourse.

Our sketch of the main elements of our pre-theoretical mapping of the field of colonial/post-colonial governance of Islam in the introduction, in combination with some of the important aspects in the contributions to this volume, may demonstrate how this approach can constitute a fruitful perspective to analyse what otherwise merely appears to be a bewildering collection of events and processes. In our view, this is a first step in the reflexive reduction of complexity, which is necessary to develop a framework with a set of interrelated concepts that can serve as a basis to critically evaluate existing theories, to formulate more precise questions for empirical research and to develop minimally coherent partial theories (Bader 1991: 26ff). As the setup of this volume shows, we believe that the way to go is the meaningful juxtaposition of historical and qualitative case studies, the gradual development of these into relevant comparative studies and, finally, the attempt to ask relevant explanatory questions and build partial theories to answer at least some of these why-questions.

Two points of a quasi-theoretical agreement are visible. The first is an alternative approach to methodological statism and nationalism. One aspect of it may be called 'interactionism' (Leezenberg & Kanie), which highlights that empires as well as nation-states have been in constant rivalry, conflict and cooperation right from the start. These clearly unequal relationships among different polities have usually been 'pluri-directional', not only 'two-directional'. Methodological statism is also a non-starter for the study of most 'religions' (their leaders, networks, associations and organisations), which have been fairly 'international' and, increasingly, 'need no passports' (Levitt 2007). Another shared approach among the involved theoretical perspectives may be called actor-centred institutionalism (the term was coined by Scharpf 1998) or a 'theory of structuration of action' to analyse the changing relationship between societal 'macro'-structures – including 'political opportunity structures' and institutionalised regimes and state-organised religions relationships – intermediary 'meso'-structures, such as networks, associations and organisations, and collective action. This approach promises to avoid the pitfalls of 'structuralism' and of 'path dependency' that also have plagued

comparative sociology of religion and comparisons of religious regimes or modes of governance of religions.

The second point is the stress on historical and empirical comparisons, which also helps to avoid false historical, evolutionary or 'structural' necessities by inquiring about 'continuities' and 'ruptures', both of which are created by actions that reproduce, change or abandon existing structures. Complementing an actor-centred institutionalist approach with historical depths by focusing on encounters, contestations and interactions and the contingent outcomes they produce is also characteristic for Barkey's linkage of historical institutionalism with network analysis. As Barkey (2008: 17) explains, this is 'because the mechanisms of institutional continuity, flexibility, and change are embedded in the meso-level network structures that link macro-level events and phenomena to macro social and political outcomes'. In her admirable comparative study of land-based 'empires of difference', Barkey has demonstrated a new and productive combination of 'sociology and history' that may also serve as an example for other comparative and historical research of colonial and post-colonial governance of Islam. Such research could focus more specifically on sea-based empires,[5] on specific fields, domains, institutions and practices across colonies and post-colonial states (either small n-case qualitative comparisons or large n-case quantitative ones) or on more aggregated comparisons of clusters of colonies and post-colonial states. In a nutshell, this is how the future research agenda might look for studies of colonial and post-colonial governance of Islam beyond the obvious limitations of this volume.

Notes

1   The French had developed strategies to maintain the specific features of African Islam already in the first decades of the twentieth century, notably under the influence of Governor William Ponty (see Harrison 1988; Conklin 1997; Triaud 2006).

2   The anti-essentialist argument that 'categories' and 'communities' are not just 'naturally given' should not be misunderstood – as it often is by 'radical constructivists' – as though they were 'invented' from scratch. Processes of real-world categorisation and self-definition selectively build on and transform existing categories and definitions (see Bader 2001 criticising Baumann).

3   For a general analysis of dilemmas of institutionalisation, see Bader (2007: chapter 8).

4   For the attempts in International Private Law to domesticate this uncertainty, see Kruger (2010).

5   In comparison with modern 'nation-states', the institutional logic of empires generally allows for much more toleration of ethnic and religious diversity as well as institutional pluralism, which is characterised by a fair amount of internal legal and cultural autonomy of different minorities all lacking fully equal legal and

political status (for this institutional logic, see Bader 2003, 2007: 195-198 and Walzer 1997). In addition to the Ottoman Empire, we originally had planned to include a comparison of two other land-based empires, the Russian and the Habsburg. As a follow-up to the admirable study by Barkey (2008), we urgently need a broader and deeper historical and comparative study of the fracturing of this 'institutional logic of empires' along different axes: land-based versus sea-based empires (in our cases, the British, the Portuguese, the French and the Dutch), monotheistic empires (all Christian and Islamic ones) versus polytheistic empires (e.g. the Roman; see Meijer 2007, the Hellenistic, the Maurya (particularly under Ashoka; see Bader 2011) and the Chinese).

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Contributors

Veit Bader is emeritus professor of social and political philosophy and sociology at the University of Amsterdam.
v.m.bader@uva.nl

Liazzat J. K. Bonate is assistant professor in the history department of the Seoul National University in South Korea.
liazbonate@snu.ac.kr

Julia Clancy-Smith is professor of history at the University of Arizona, Tucson.
juliac@email.arizona.edu

Markus Daechsel is lecturer in the history of modern Muslim societies at Royal Holloway, University of London.
markus.daechsel@rhul.ac.uk

Faisal Devji is reader in Indian history at the University of Oxford.
faisal.devji@sant.ox.ac.uk

Serge Gutwirth is professor in the faculty of law and criminology at the Vrije Universiteit Brussel.
slgutwir@vub.ac.be

Shamil Jeppie is senior researcher at the Institute for the Study of Humanities in Africa at the University of Cape Town.
shamil.jeppie@uct.ac.za

Michiel Leezenberg teaches in the department of philosophy and within the Islam in the Modern World Master's programme at the University of Amsterdam.
m.m.leezenberg@uva.nl

Mariwan Kanie is lecturer in the political science and Arabic departments at the University of Amsterdam.
m.kanie@uva.nl

Mário Artur Machaqueiro is senior researcher at the Centre for Research in Anthropology at the New University of Lisbon.
maarma@fcsh.unl.pt

Maleiha Malik is professor of law at the School of Law, King's College, University of London.
maleiha.malik@kcl.ac.uk

Marcel Maussen is assistant professor in the department of political science at the University of Amsterdam.
m.j.m.maussen@uva.nl

Karen Meerschaut is administrative attaché of the Belgian Council of State and a postdoctoral researcher in the faculty of law and criminology at the Vrije Universiteit Brussel.
kmeersch@vub.ac.be

Annelies Moors is professor of contemporary Muslim societies in the department of sociology and anthropology at the University of Amsterdam and director of the Muslim Cultural Politics research programme at the Amsterdam Institute for Social Science Research.
a.c.a.e.moors@uva.nl

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