ORIENT

Muslims in Europe

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Editorial

Dear readers of ORIENT,

On June 14th this year, the German Orient-Institute will celebrate its 50th anniversary. For half a century it has been devoted to scientific research on political, economic, cultural and religious issues in the Near and Middle East. Committed to this long standing tradition, we constantly try to remain focused on the urgent problems related to this region.

In this context, the German Orient-Institute arranged a writers competition inviting young talented students to write on "Challenges to German Oriental Studies in the 21st Century".

The current issue of ORIENT is equally trying to keep up with our aspirations to focus on topics of actual interest. In the first part we look on our own European societies and investigate the important subject of Muslim integration in Europe and especially in Germany. A variety of outstanding scholars discusses social, organisational and legal challenges and opportunities relating to Muslim minorities in Europe. We hope to offer you an interesting and fruitful contribution to a much-needed discussion that is especially relevant for a country like Germany. Here, Muslim minority population has grown to approximately 4 million. Nonetheless, integration policies and a serious dialogue with Muslims in Germany were just developing during the last few years.

The second part of the current issue is dedicated to Yemen – a country that gained international attention during the last months due to the rise of militant Islamism which is threatening the stability of the region and endangering the international security situation. This became evident with the attempt of bombing a plane in Detroit in December 2009 by a Nigerian terrorist trained in Yemen. Now, the country is seen by many as a "failed state" and a "safe haven" for al-Qa'ida fighters. However, Yemen struggles against many different challenges besides the security issue.

Therefore, this issue of ORIENT is also focussing on Yemen as a country on the brink of collapse in several manners. Our authors are dealing with the Yemeni water scarcity, the challenges for the oil-dependent economy, tensions within the Yemeni society or the deep gap between the traditional tribal society and the central government. Additionally, Yemen is a country with a long Islamic and pre-islamic history and tradition which is emphasized in the last contribution about Yemen.

In a different context, the last contribution deals with the political impact of Internet on Shi'ite Iran since the mid-1990s.

We hope you will enjoy reading this issue. We always welcome any feedback from our readers which might help us to be even more focused in our writings on subjects of real interest.

With my best wishes

Dr. Gunter Mulack
Director of the German Orient-Institute

Content

Abstracts

Joel S. Fetzer, Ph.D, and J. Christopher Soper, Ph.D

The Not So Naked Public Square: Islam and the State in Western Europe

The migration and settlement of large numbers of Muslims in Western Europe in recent decades has posed a challenge to European secularism. As European Muslims began to turn to the state for public recognition of their religious rights, these residents exposed a conflict between Europe's supposedly secular political culture and state policies that provided myriad benefits to religious groups. This article examines how Muslims highlighted tensions inherent in European church-state practices and explores how European states might best ensure the successful incorporation of Muslims into their respective societies.

Dr. Shireen T. Hunter

Europe's Muslim Minority: The Challenge of Integration

The article deals with the large Muslim presence in Europe which is facing European countries, as well as Muslim communities, with multifaceted and difficult issues and challenges of integration. The biggest problem in tackling the integration challenge is that no one can agree on what precisely integration means. Many Europeans equate integration with assimilation, while Muslims are fearful of the term as a code word for the erasing of their religion and culture. Yet, there are clear criteria according to which the level of Muslim integration in Europe can be measured and future integration promoted: These are, legal, linguistic / educational, economic, civil, cultural and psychological criteria. Judged on these criteria the degree of Muslim integration is far from satisfactory. Yet the several problems would be insurmountable if both Muslims and Europeans realized that integration is a two way process; Muslims must be willing to integrate and the Europeans must be willing to accept them.

Prof. Dr. Mathias Rohe

Islam and the Law in Europe

In his paper, Prof. Rohe is focussing on the obstacles, challenges and problems with the full integration of Muslims in the several law systems in Europe and is in particular focusing on the current situation in Germany that has one of the largest Muslim populations in the European Union. Since many of them still have an immigration background, there are specific migration-related topics to be addressed. These are, however, secular in nature; they do not concern Muslims' religious beliefs or their religious needs as such. Since September 11, 2001, Muslims in Europe and other Western societies have faced what has come to be known as "Islamophobia." Many Muslims in Europe still tend to seek practical solutions for reconciling their own religious beliefs and practices with legal and other codes of secular European societies. Within the last few years European Muslims have also tried to formulate theoretical statements to clarify their positions on these issues, identify possible conflicts between legal and religious norms, and find adequate solutions for such conflicts.

Dr. Hansjörg Schmid

Representation or Participation? How German Muslims Seek to be Recognized

To be recognized constitutes one of the central goals of German Muslims. Representation and participation can be described as two strategies for recognition. Since the processes of constructing Islam in Germany are variegated, several fields are explored under the key focus which of the two strategies dominates: building up umbrella organisations, social commitment, Islamic religious education, Islamic theology, interreligious dialogue and Muslim articulation in the media. Finally, the process of the Muslims' entering the arena of civil society through participation is compared with the situation of the churches which in the German context are traditionally state-oriented institutions.

Dr. Tahir Abbas

The British Pakistani Diaspora: Migration, Integration and the Intersection of Race, Ethnicity and Religion

This paper provides a sociological overview of the post-war immigration, settlement and community development of British Pakistanis. First, there is an historical perspective on issues of migration and settlement. Second, an analysis of demographics and social mobility provides a deeper socio-economic contextualisation, with a focus on the city of Birmingham as a test case. Finally, the implications for community development in the context of plural societies is explored in the light of recent events where British Pakistanis have attained less favourable notoriety, namely in questions of socio-economic status, radicalisation and extremism. It is suggested that there are significant challenges facing this community, but very few real social, economic, political and cultural opportunities to better engage in society.

Dr. Ralph Ghadban

***Fiqh al-aqalliyyāt* and its Place into Islamic Law**

Besides the well known attempts of modernizing Islam through theology there is a wide field of approaches which are intending to integrate modernity into Islam. Those approaches with many different names are based on the *fiqh* and can be categorized into two groups under the labels *fiqh al-nawāzil* and *fiqh al-aqalliyyāt*. The paper intends to

explain the similitudes and the differences between both *fiqh* and their relation to the classical *fiqh*. Further it intends to show how far the fiqh approach can succeed in modernizing Islam.

Thomas Schmidinger
Yemen: State Failure by Regime Support?
This article considers the causes of conflict in Yemen and poses the following question: can the western states' strategy of providing financial, logistic and military support to the government under President Ali Abdullah Saleh contribute to stabilizing the country, or could it weaken the Yemenite state instead? In matters of international security, the USA and other western states have been focusing their attention on Yemen since autumn 2009. At a London conference in late January, twenty-one foreign ministers of industrialized western states debated the matter of providing aid to President Ali Abdullah Saleh and his government.

Dr. Mark N. Katz
Yemen and the "War on Terror"
While the US is more concerned about the presence of Al Qaeda in Yemen, the Yemeni government is more concerned about its more powerful domestic opponents: the Houthi rebels in the north and the secessionists in the south. Much to Washington's chagrin, Sana'a has sometimes seen Al Qaeda and its sympathizers as allies against these other domestic opponents. Although Sana'a has recently renewed its cooperation with the US against Al Qaeda, it is not clear whether it is doing so because Sana'a really has come to see Al Qaeda as more of a threat (as US officials claim) or because it sees making a show of cooperating with the US against Al Qaeda as a useful way of obtaining American resources for suppressing its other opponents.

Lorenzo Guarcello and Scott Lyon
Children's work and water access in Yemen
The strong link between water access and child health is well-documented. Much less is known about how water access affects children's activity patterns. Empirical evidence presented in this paper indicates that providing households with ready water access makes it much more likely that the children from these households attend school, and much less likely that they are reported as being idle. Improving water access also reduces the likelihood of children being economically active, though the effect is smaller in magnitude.

Dr. Ahmed Farouk Ghoneim
Yemen's Prerequisites for Effective Integration in the World Economy
Yemen can be characterized by most indicators as a liberal, open, market economy. However, Yemen to a large extent lacks the organizations and institutions necessary for an efficient functioning of a liberal open economy that are able to ensure positive outcomes of market processes through regulating and monitoring the functioning of a market economy. The absence of an antidumping authority and a competition authority is a case in point. Despite several policies undertaken by the Government of Yemen (GOY) to liberalize and reform trade, such policies have not been translated into significant changes in enhancing non-oil exports. Remittances are considered an important source of revenue. The potential is high for Yemen on enhancing services exports and foreign direct investment, while there is a limited potential for diversifying merchandise exports. To reap such potential, the most important challenge for Yemen is to improve the institutions and organizations capable of enhancing such potential.

Dr. Werner Daum
Yemen – A short History of three Millennia
During the first millennium BC, the caravan kingdoms of Yemen provided Mesopotamia, Greece and Rome with their most expensive luxuries: frankincense and myrrh, cinnamon and cassia. The legendary Incense Road, the world's oldest trading route, connected India and Arabia with the Mediterranean. During the high Middle Ages, Yemen under the Rasulids was once again at the heart of world trade: farsighted policies made the Indian Ocean a cultural, religious and commercial unity, centred on Aden.

Dr. Babak Rahimi
The Virtual Ulama: Dissent, Internet and Shi'i Clerics in Post-revolutionary Iran
An attempt is made to study the political impact of Internet on Shi'i Iran since the mid-1990s, when the new information technology was first introduced to post-revolutionary Iran. The study underlines the ways in which Shi'i groups of various political factions, while guided under the spiritual leadership of diverse Grand Ayatollahs based in Qom and Najaf, have used the new information technology to carve out new spaces of dissent against the Iranian theocracy since the election of the reformist cleric, Mohammad Khatami, in 1997. Based on interviews in Iran and text analysis of websites, the study examines Shi'i cyber activism in terms of a new political discourse of selfhood, piety, politics and spiritual authority. The study looks at Internet in three significant phases of development: First, the "reformist period,". the second phase is referred to as "Najaf period," and the third stage, the "Green period," is identified here in close connection with the turmoil following the disputed 2009 Presidential Elections.

J. Christopher Soper, Ph.D, and Joel S. Fetzer, Ph.D

The Not-So-Naked Public Square:
Islam and the State in Western Europe[1]

I. Introduction

In a 2008 lecture delivered at the Royal Courts of Justice, Rowan Williams, the head of the established Church of England and spiritual leader for the 80 million members of the worldwide Anglican Communion, said that a "constructive relationship between Islamic law and the statutory law of the United Kingdom should be considered."[2] In a subsequent radio interview, Williams expanded on this point by noting that the 1.6 million Muslims living in Britain make legal changes all but "unavoidable," and that "as a matter of fact, certain conditions of Shari'a are already recognized in our society."[3] His comments set off a torrent of criticism. Prime Minister Gordon Brown's office released a statement saying that Shari'a law "cannot be used as justification for committing breaches of English law."[4] The Conservative Party leader, David Cameron, warned that the expansion of Shari'a law would represent the "logical endpoint of the now discredited doctrine of state multiculturalism."[5] Williams later tried to clarify that he never said, nor intended to imply, that he advocated a wholesale acceptance of all parts of Shari'a law for the British Islamic community, but only those portions dealing with marital and financial affairs. He also noted, correctly, that rabbinical courts are recognized under British law to deal with civil disputes for members of the Orthodox Jewish community. The damage, however, had already been done. Calls for Williams' resignation eventually subsided, but his foray into this debate proved to be an object lesson suggesting that clerical fools rush in where secular angels fear to tread.

England is not particularly unique in contending with issues such as this one; a similar tale could just as easily be told about the latest controversy in France over efforts by the state to forbid the wearing of the full facial veil in public, the referendum in Switzerland that banned the construction of minarets, or seemingly perennial efforts in Germany to determine whether to grant public corporation status to Muslim organizations.[6] All European countries are struggling with the question of how – or if – to recognize and accommodate Muslim religious practices within their borders.

The immigration and settlement of many Muslims in Europe over the past decades have exposed tensions inherent within state policy toward religion. On the one hand, Muslims have demonstrated that government policy is not nearly as 'secular' as it claims to be. The persistence of well-established church-state relations, and the cultural values that support them, influenced how European states initially responded to Islamic claims for equal treatment. History did not determine the outcome of the conflict over state recognition of Muslim rights, but it certainly shaped how political actors framed the debate and understood the terms of negotiation between religious and political authorities. On the other hand, the presence of Muslim immigrants has resurrected political disputes around religion that were largely seen to be a thing of the past. As a consequence, European states find themselves having to revisit the thorny issue of what it means to be a 'secular' state and what rights religious groups enjoy in such a polity.

II. The Roots of Secularism and Church-State Practices in Western Europe

The Protestant Reformation personified the challenges arising from religious pluralism.[7] The Reformation shattered the unity of European Christendom and eventually led to the devastating Thirty Years' War (1618-1648). The Peace of Westphalia that ended the war reaffirmed the right of rulers to determine the religion to be followed in their territories, but the accord also provided for the rights of dissenters and proscribed state intervention on religious matters outside of the territory. As Daniel Philpott has persuasively argued, the Westphalian system was "secularizing in spirit"

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[1] Portions of this article were previously published in Joel S. Fetzer and J. Christopher Soper, Muslims and the State in Britain, France, and Germany (Cambridge: Cambridge University Press, 2005), and are used by permission.

[2] Rowan Williams, "Civil and Religious Law in England: A Religious Perspective," available at: http://www.archbishopofcanterbury.org/1575.

[3] BBC Radio 4. Interview with the Archbishop of Canterbury, Dr Rowan Williams, vailable at: http://www.bbc.co.uk/radio4/news/wato/archbishoptranscript.shtml.

[4] Bob Roberts, "Archbishop is Bashed; Anger over Call to Accept Muslim Law," The Mirror, February 8, 2008, p. 6.

[5] Frank Millar, "Cameron Warns Against Expansion of Islamic Law," The Irish Times, February 27, 2008, p. 12.

[6] See Steven Erlanger, "Divided French Panel Moves Cautiously on Veil," The New York Times, January 27, 2010, p A3; Nick Cummings-Bruce and Steven Erlanger, "Swiss Ban Building of Minarets on Mosques," The New York Times, November 29, 2009, p A4.

[7] Stephen V. Monsma and J. Christopher Soper, The Challenge of Pluralism: Church and State in Five Western Democracies, second edition (Lanham, Maryland: Rowman and Littlefield, 2008).

insofar as it differentiated the world of politics from the world of religion.[8] The treaty also laid the foundation for what would eventually follow – the institutional separation of church and state. Church-state separation and secularization came in fits and starts and varied from country to country, but Westphalia diminished the political power of churches, strengthened the power of the state, and constrained the state's interest in religion. Precisely because it separated religious and political spheres, however, the Westphalian synthesis planted the seed for a new kind of political conflict, wherein citizens could find themselves caught between the Scylla of religious loyalties, on the one hand, and the Charybdis of secular state claims, on the other.

Over the following centuries, this new secular-religious conflict manifested itself to a greater or lesser extent in the politics of virtually every country in the region. At one end of the spectrum was France, where politics became an arena pitting secular and religious forces against each other. In the early years of the French Revolution, the state became an implacable opponent of the Church and even tried to destroy it with a series of radical reforms. This de-Christianizing campaign failed, but the revolutionaries established a regime of church-state separation that helped to fuel a lasting animosity between the partisans of the Church and of the Revolution.[9] The Separation Law of 1905 institutionalized *laïcité,* the particularly French form of church-state separation. On its surface, the provisions of the law were not necessarily anti-religious. The law re-established the right to freedom of worship, eliminated state payments to clergy and any expense associated with worship, forbade the placing of any religious sign or symbol on public monuments, affirmed that the state must be neutral in regard to religion, and secularized public education. In the French context, however, friend and foe alike understood *laïcité* as an aggressive defense of Republican values against clerical ones. In such a setting, the ideal citizen was one who had a singular identification with the "secular" and "universal" values of the state. Any ascriptive identity, such as ethnicity, race, sect, or particularly religion, was to be eliminated altogether, or at a minimum, religion was to be thoroughly privatized, stripped of any public or political significance, and thereby relegated to a marginal role in society. As the 20th century progressed, and fewer and fewer people were religiously active in France, it perhaps became harder to recall that many of the roots of French nationalism and secularism were essentially anti-religious. The immigration and settlement of Muslims in the latter part of the 20th century, however, would be a rude reminder of this history.

Germany experienced a similar conflict shortly after the country's unification under Bismarck in 1871. The leadership of the new German state was conservative and overwhelmingly Protestant. The state allied itself with the Protestant *Evangelische* churches, and Bismarck launched his famous *Kulturkampf* to establish state supremacy over the Catholic Church, including control over primary education and suppression of the Church's political role. As in France, the political threat from the state led to the formation of a Catholic party of religious defense, the *Zentrum*, which lasted in its original form until the end of the Weimar Republic.[10] Unlike in France, the church-state conflict in Germany was short-lived. When it became apparent that the *Kulturkampf* had failed, Bismarck reestablished relations with the Vatican and canceled the restrictive laws. What followed in Germany was a policy which linked the state to the historically dominant churches in various endeavors. The German Basic Law formalized a process where the state officially recognizes churches as public corporations, which makes them eligible to receive the proceeds of a church tax (*Kirchensteuer)* that is collected by the government. Many of the state's social welfare services are run through agencies of these publicly recognized churches.

While the Netherlands did not experience anything as politically devisive as the French Revolution or the *Kulturkampf*, Enlightenment liberals struggled politically against Reformed Protestants and Roman Catholics throughout the 19th century. This conflict came to a head with the passage of a new school law in 1878. The law mandated new and higher standards for all schools – public schools run by municipalities, as well as alternative schools operated by Catholic and Reformed Protestant groups. The statute then provided for generous financial subsidies from the central government to pay for these mandated improvements for the public schools, but not for the religious alternative schools. In the context of the times, the Catholics and Reformed Orthodox citizens viewed this law as an all-out attack on the religiously based schools.[11] The law ignited a political firestorm in the country and drove the Orthodox Reformed

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8   Daniel Philpott, "The Challenge of September 11th to Secularism in International Relations," *World Politics,* Volume 55(1):66-95.
9   Joel S. Fetzer and J. Christopher Soper, Muslims and the State in Britain, France, and Germany (New York: Cambridge University Press, 2005), chapter 3.
10 Stathis N. Kalyvas, The Rise of Christian Democracy in Europe (Ithaca, NY: Cornell University Press, 1996), chapter 4.
11 Monsma and Soper, The Challenge of Pluralism*, chapter 3.

Catholics – two groups with long histories of antagonism and distrust – into a formidable, politically active alliance that quickly became a major political force and won an absolute majority of the lower house in 1888. In a series of stages over 40 years, this religious alliance achieved total approval of its vision of education: religiously based schools of various types and public schools espousing a "neutral," consensual philosophy all sharing fully and equally in public funding.

This concept was enshrined in Article 6 of the Dutch Constitution, which protects religious belief whether one exercises it as an individual or "in community with others." This principle was interpreted to guarantee full funding for schools of all faiths on par with the public schools. Moreover, this pluralistic principle came to dominate public thinking and to be copied in many other areas of public life. From the 1920s until at least the 1960s, a system referred to as "pillarization" (*verzuiling*) came to mark Dutch society. Under pillarization, most areas of group activity – political parties, labour unions, education, television broadcasting, retirement homes, social service agencies, and recreation clubs – were marked by separate organizations representing the four main religious and secular pillars of society: Reformed Protestant, Catholic, socialist, and neutral, or liberal.[12] These separate pillars were recognized and fully funded by the state, and citizens identified themselves within a pillar consistent with their own religious or secular worldview.

Church-state relations in Britain followed a distinctive pattern. A political rivalry developed between the established Church of England and dissenting churches that spilled over into party politics in the late 19th century, but this competition was neither long-standing nor intense. Unlike their counterparts in France, the left-of-center parties – Liberal and then Labour – were not anticlerical; they opposed the political privileges enjoyed by the Church of England, but they were not aggressively secular, nor did they advocate a separation of church and state. What they generally wanted was an expansion of the system to include minority faiths. Far from being hostile to religion, the state thus retained a formal, institutional role for the churches in public life that remains largely to this day. While it did not exhibit the formal pillarization that marked the Dutch experience, the British state nonetheless retained the established Church of England. By the turn of the 20th century, however, the state had lifted most of the disabilities associated with religious nonconformity and had begun to accommodate minority religions in key areas of educational and social welfare policy. Formally, state aid flowed to religious schools, media, and social service agencies. Informally, leaders of the largest churches retained a role in shaping cultural and moral values.

III. Secularism and Islamic Immigration

Muslims became implicated in this historical process for the simple reason that they began immigrating in large numbers to Western Europe following the Second World War. A Muslim population numbering less than one million in Western Europe in 1961 grew to more than 16 million a half-century later. Islam is now the third-largest religion overall in Europe, and it is growing much faster than the historically dominant Catholic and Protestant churches. The percentage of the Islamic population is still relatively small in most Western European countries; because first-generation Muslim immigrants have higher birth rates than the native-born populations,[13] however, that proportion is almost certain to rise in the decades ahead.

The Muslim presence had the effect of resurrecting religious-political disputes that were largely seen as settled in the region. Governments were suddenly confronted with such issues as how or whether to accommodate Muslim religious practices in state schools, public hospitals, prisons, and the military, and whether to pass laws specifically designed to protect Muslims against religious discrimination. What mattered most in the resolution of these disputes was the historical church-state legacy of each country in the region.[14]

No major western European state has gone further than the Netherlands in accommodating Muslims. Consistent with its historical commitment to promoting group identity with state funding to Catholics and Protestants, the Dutch state has largely done the same for Muslims and other religious minorities. Muslims currently represent about 5 percent of the Dutch population. While the public policy has not been without controversy, the government has arguably expanded its model of pillarization to include a Muslim pillar alongside the existing Reformed Protestant, Catholic, socialist, and liberal ones. In education, for example, the country now contains 46 Muslim primary schools and two Muslim secondary schools, and the

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[12] Arend Lijphart, The Politics of Accommodation: Pluralism and Democracy in the Netherlands (Berkeley: University of California Press, 1968); Harry Post, Pillarization: An Analysis of Dutch and Belgian Society (Aldershot, UK: Averbury, 1998).

[13] Michèle Tribalat, Faire France: Une enquête sur les immigrés et leurs enfants (Paris: La Découverte, 1995).

[14] Fetzer and Soper, Muslims and the State in Britain, France, and Germany.

government maintains a training program for imams at Leiden University and the Free University in Amsterdam. These schools and programs are fully funded by the government. Pillarization was not historically limited to education, however, but involved state support for various activities. In keeping with this pluralistic tradition, the Dutch state assists Christian, Jewish, secular, and now Islamic social service agencies, and the state even subsidizes religious broadcasting on radio and television by various traditions, including Islam. The gradual secularization of Dutch society has meant that the religious pillars are now less significant for the Christian traditions that they were initially established to promote. Protestant and Catholic leaders still largely support the policy model, but Muslims have become the most vocal supporters of pillarization, largely because they perceive it as allowing them simultaneously to strengthen their Islamic identity and to integrate into Dutch society on their own terms.[15]

Historical patterns have similarly shaped the British response to Muslims and to multiculturalism. Having carved out an institutional role for Christianity and Judaism in education, as an example, Britain eventually did the same for Islam. According to the 2001 census, 1.6 million Muslims currently live in Britain, making them about 3 percent of the total population. While the issues required some time and political debate, in 1997 the state eventually agreed to finance two Islamic schools under the same conditions that govern the funding of Christian and Jewish ones. Since then, the number of separate Islamic schools has expanded, as have the number of faith-based schools from other religious minority traditions. In addition, British educational officials embraced multiculturalism in mandatory religious education classes, adding a discussion of Islam, Hinduism, Judaism, and Sikhism alongside the consideration of Christianity. Islamic social service agencies have begun to receive state funding as well, although this support is in its infancy. Finally, there has been an ongoing effort to reform the membership of Britain's upper House of Parliament, the House of Lords, to include assigned seats for Muslim and other leaders of minority faiths alongside those automatically granted to senior bishops in the Church of England.

Germany, meanwhile, has adopted a slightly less accommodating policy on Islam. As in Britain, the issue for German Muslims is not whether the state should accommodate religion in public institutions; it already does. The question, instead, is whether the state is willing to expand its informal religious establishment and consider Islam as a public corporation (*Körperschaft des öffentlichen Rechts*) despite Muslims having not been party to the original compromise. To date, no state government has recognized any Muslim group as a public corporation. Moreover, some state governments have forbidden Muslim teachers from wearing the *hijāb* on the ground that such Islamic dress by a public official violates state neutrality on religious matters.[16] This practice continues, even though in German states such as Bavaria, most public school classrooms have crucifixes, and teachers from Catholic religious orders are not asked to remove their religious garb.

Nonetheless, the German church-state model, much like the British one, legitimates Muslim demands for public recognition of their religious practices. The state has, for example, funded some Islamic social welfare and cultural organizations, as well as an Islamic school in Berlin. Moreover, the Basic Law stipulates that religion is to be a part of the curriculum in all public schools, and states have become more accommodating in offering instruction in Islam alongside that offered to Christian and Jewish students. In the state of North Rhine-Westphalia, for example, educational authorities have mandated the teaching of Islam in required religion courses in public schools, and have even gone so far as to draft the required textbook. The clear intent of this decision is to encourage Muslims to learn more about their faith in public schools and to insure that the version of Islam they are taught is fully compatible with liberal democracy.[17]

With its historical legacy of church-state *laïcité*, France has never really considered providing public money for Islamic schools, despite the state's having partially funded some Catholic schools since 1959.[18] Elite and popular support for *laïcité* has made it virtually impossible to put this issue on the political agenda in the *métropole*.

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[15] Veit Bader, "Religious Diversity and Democratic Institutional Pluralism," *Political Theory* 31(2): 265-94.

[16] Denis Staunton, "German State Allows Crucifixes in Schools but no Head Scarves," *Irish Times,* July 28, 1998, p A1; Fereshta Ludin (teacher, Islamische Grundschule Berlin). Personal interview with Joel Fetzer, May 7, 2001 Berlin; Rita Süssmuth, "Reasonable or Mutual Accommodation? The Integration Debate in Germany," *Policy Options/Options Politiques,* 28(8/September 2007):52-57; Douglas B. Klusmeyer and Demetrios G. Papademetriou, Immigration Policy in the Federal Republic of Germany: Negotiating Membership and Remaking the Nation (New York: Berghahn Books, 2009).

[17] Klaus Gebauer, ed., Religiöse Unterweisung für Schüler islamischen Glaubens: 24 Unterrichtseinheiten für die Grundschule (Soest: Landesinstitut für Schule und Weiterbildung, 1986); Ulrich Pfaff (Ministerialrat, Ministerium für Schule, Wissenschaft und Forschung des Landes Nordrhein-Westfalen). Personal interview with Joel Fetzer, March 23, 2001 Düsseldorf.

[18] Fetzer and Soper, Muslims and the State in Britain, France, and Germany, chapter 3.

More dramatically, in 2004 the French National Assembly passed the law "on secularity and conspicuous religious symbols in schools" that banned the wearing of the *hijāb* and, technically, other "conspicuous religious symbols" in French public primary and secondary schools.[19] The law does not apply to private schools, however, and there is some evidence that Roman Catholic schools have become a refuge for French Muslims who believe that those schools are more sympathetic to a religious worldview than are the state-run alternatives.[20]

The French policy response follows logically from the state's historical rejection of church-state accommodation and legacy of animosity between religious and political authorities. To the extent possible, the state wants to have nothing to do with religion. In such a setting, state accommodation of French Muslims is understood as a rejection of the French policy tradition and as a potential threat to French national identity. The state has made some overtures to the presence of Muslims, but not without controversy. In 2002, for example, then-Interior Minister Nicolas Sarkozy established the French Council of the Muslim Faith as a way to formalize relations between the state and French Muslims. This minimal bow to multiculturalism, however, was widely criticized by the left and the right for failing to uphold the French separatist and secular traditions. For their part, many French Muslims feared that the true intent of the council was to enable the state to control Islam from above in a neo-colonialist fashion. The recent recommendation by French legislators to institute a ban on the wearing of the full veil in government offices, public hospitals and mass transit is much more in keeping with the legacy of assertive secularism in French history.

Once they are established, political institutions are difficult to change. Yet they are not forever fixed. Two recent factors have led to a rethinking of these firmly established church-state patterns. The first is European secularism. Thus far, policy towards Muslims in Germany, the Netherlands, and Britain has been supported by the institutional legacy of church-state accommodation, the cultural memory of religion as a significant feature of public life, and the political fact of churches as powerful institutions. However, many of the earlier conditions which produced this policy no longer hold. Western Europe has gradually secularized over the past century, at least in the sociological sense, i.e. there are fewer and fewer people attending

religious services. What is noteworthy, however, is that the political arrangements between church and state are largely a holdover from times long past. States that have accommodated religious groups in the past largely continue to do so in the present.[21] The apparent disconnect between an increasingly secular culture, on the one hand, and state accommodation of religion, on the other, was ready and waiting be exposed. The Islamic presence proved to be the catalyst for bringing to light these potentially contradictory norms.

Attacks by Islamists in Madrid, London, and Amsterdam transformed a relatively quiet political debate about church-state policy into a cultural and philosophical conflict about the capacity of European Muslims to integrate into the values of the West. There are two broad competing visions for how European states should address this challenge. The first believes that the best way to resolve social tensions based on religion is to assert the supremacy and unifying potential of secular, liberal norms over particularistic, religious ones. In this perspective, the emphasis on separate organizations representing religious and philosophical traditions, including now the Muslim tradition, is divisive, makes it more difficult for European Muslims to assimilate to the values of the West, and is being used by Muslims extremists to spread their doctrines. The second model counters that the enhancement of the rights of religious groups is consistent with liberal values and can further the civic purposes of the state. The historical legacy of state accommodation to religion supports this position, as do the inherited practices that encourage a public role for religion.

IV. Secularism and the Preservation of the Liberal State

The argument for a secular public policy is based on the perception that European states have given religious groups, particularly Muslims, too much power and recognition. While liberal states can and should tolerate cultural diversity and protect religious freedom, this view contends that states have gone too far by providing legal recognition for the particularistic practices of religious groups. According to advocates of a secular approach, a policy of accommodating religious groups errs by permitting or even affirming those practices of minority groups that are flagrantly contrary to liberal values. As the political theorist Francis Fukuyama succinctly states it:

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[19]   John Bowen, Why the French Don't Like Headscarves (Princeton: Princeton University Press, 2006).
[20]   Katrin Bennhold, "French Muslims Find Haven in Catholic Schools," *The New York Times,* September 29, 2008, p. A8.
[21]   Jonathan Fox, "World Separation of Religion and State into the 21st Century," *Comparative Political Studies*, volume 39(5):537-569.

"[T]he old multicultural model ceded entirely too much authority to cultural communities to define rules of behavior for their own members. Liberalism cannot ultimately be based on group rights, because not all groups uphold liberal values."[22]

Critics of accommodation from the political left frequently cite the violation of gender rights as a primary reason for their opposition to the policy. In a series of seminal articles, Susan Moller Okin argued that "multiculturalism [was] bad for women."[23] Minority cultures are often patriarchal, she argued, and to defend the rights of those cultures to continue their practices necessarily violates liberal commitments to gender equity. In the contemporary European context, the politics of identity, or group rights, thus goes too far when power is ceded to Islamic groups to control such matters as divorce, marriage, and family law. Such an arrangement inevitably preserves practices that systematically disadvantage women.[24] The popular media reinforce the idea that such policies are bad for women by spotlighting cases of forced marriages within the Islamic community, the difficulty of Islamic women to secure a divorce, and the decision of parents to remove their daughters from public schools if young women are not allowed to wear the *hijāb*.[25]

The political response against state accommodation of Islamic practices, however, has mostly come from the political right. Xenophobic political parties have arisen in Austria, Denmark, and France over the past two or three decades, parties that are explicit in their opposition to immigration and multicultural policies. A study of the Dutch case demonstrates that multiculturalism in that country has created a backlash against those policies among Dutch citizens.[26] The rejection of the proposed Constitution for the European Union by popular referendum in France and the Netherlands in 2005 similarly reflected a popular concern about the ability to preserve national identity in the face of a perceived multicultural challenge. Finally, the referendum in Switzerland that banned the construction of new minarets was defended, in part, on the ground that the state had gone too far in recognizing the rights of Muslims.[27]

In the public policy arena, the key places in which these issues are raised are citizenship and education. In the recent years, several European countries have refined their tests for immigrants seeking naturalization. The impetus in each case was a fear that these newer immigrants were not successfully integrating into the values of the host country. Citizenship tests are administered in the language of the country where the immigrants are seeking citizenship, sending a strong message about the link between competence in their new country's tongue and full membership in the political community. Immigrants are expected to learn the basic facts about the country's history, political institutions, and cultural values. Some countries, however, seem to have designed portions of their tests to alienate potential citizens, particularly those with certain religious sensibilities. In the Netherlands, for example, before even being admitted to the country, potential immigrants are shown images of topless female bathers and gay men kissing as a way to expose them to Dutch cultural practices, and presumably to Dutch ideas of tolerance. The German state of Baden-Württemberg includes questions about the person's views on forced marriages, homosexuality and women's rights, all ostensibly designed with an eye toward the growing Muslim population. Finally, France recently denied citizenship to an applicant who wore a *niqāb* on the ground that her "radical" practice of Islam was incompatible with French secular and gender values.[28]

Educational policies have also been under attack in two respects. First, many citizens have reacted against the funding of separate Islamic schools in such states as Britain and the Netherlands. The claim is often made, though rarely substantiated, that state aid to religious schools encourages the development of education segregated by faith and that those schools fail to inculcate young people with liberal, democratic values. For the most part, however, there has been no systematic reduction in state aid to Islamic schools in those countries

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[22] Francis Fukuyama, "Identity, Immigration, and Liberal Democracy," *Journal of Democracy*, volume 17(2): p.15.

[23] Susan Moller Okin, "Feminism and Multiculturalism: Some Tension," *Ethics*, volume 108(4): 661-684; and Susan Moller Okin, "Is Multiculturalism Bad for Women?" pp. 9-24 in Susan Moller Okin et al., eds., Is Multiculturalism Bad for Women? (Princeton, New Jersey: Princeton University Press, 1999).

[24] Ranu Samantrai, "Continuity or Rupture: An Argument for Secular Britain," *Social Text*, volume 18(3):105-121.

[25] Gholan Khiabany and Milly Williamson, "Veiled Bodies and Naked Racism: Culture, Politics, and Race in the Sun," *Race and Class*, volume 50(2): 69-88.

[26] Paul Sniderman and Louk Hagendoorn, When Ways of Life Collide: Multiculturalism and its Discontents in the Netherlands (Princeton, New Jersey: Princeton University Press, 2007).

[27] Martin Dolezal, Marc Helbling, and Swen Hutter, "Debating Islam in Austria, Germany and Switzerland: Ethnic Citizenship, Church-State Relations and Right-Wing Populism," *West European Politics,* volume 33(2):171-190.

[28] Dianna Corbette, "Testing the Limits of Tolerance," *Deutsche Welle*, March 3, 2006, available at: http://www.dw-world.de/dw/article/0,2144,1935900,00.html; Katrin Bennhold, "A Veil Closes France's Door to Citizenship," *The New York Times,* July 19, 2008, p. A3.

where the state is also giving money to Christian and Jewish schools. Second, European states have begun to look more closely at their civic-education curriculum in state-run and private schools. Since 2002, secondary schools in England must meet statutory requirements in citizenship that include developing the requisite knowledge and understanding for becoming informed citizens and mastering the skills of civic participation and responsible action. The goal of this citizenship education is clearly to promote cultural assimilation.[29]

The second argument against state accommodation of religion, and for a more robust secular approach, is specifically addressed to the so-called "Muslim challenge."[30] The argument is made that Muslims are a growing presence in Europe, that they have maintained an Islamic identity that makes them resistant to integration, and that Islamic values are antithetical to liberal European values. Individualism, pluralism, and tolerance distinguish Western political culture, but a focus on group rights, the argument goes, can challenge those liberal values, at least insofar as Muslims promote a way of life that is antithetical to liberal norms. What is needed, by contrast, is a more muscular, or "energetic effort to integrate non-Western populations into a common liberal culture."[31]

Secularism is also implicated in this picture. There are echoes, sometimes faint, sometimes quite explicit, of the French model for dealing with the contemporary secular-religious divide. The goal is not so much to eradicate religion, but to discourage state efforts that promote religious identities (e.g., practices such as state aid to religious schools and other institutions). Since many states provide subsidies to churches, equity demands that governments provide the same privileges to Muslims. The best way to avoid this problem is to deny public money to any religious group. The problem with the current church-state policy, according to this reading, is that it solidifies the isolation of communities with divergent values. What is needed, by contrast, is a public space denuded of religious and cultural identities, where religion is a purely private affair, distinct and separate from public affairs.

Whatever void is created in this process should be filled by liberal political values, where citizenship is based on shared political norms rather than cultural

or religious ones. For Fukuyama, for example, the headscarf ban in France was "the reassertion of a republican tradition that had been allowed to lapse."[32] The implication is that republican values are universal, "neutral," and colour-blind with respect to a person's cultural origin, which is precisely why those values can and should be the basis for national unity. What is interesting is the degree to which this argument, so firmly rooted in French history and practice, has been taken up in countries like Britain, Germany, and the Netherlands, which have a long-standing precedent of accommodating religious groups through public policy. As with the French case several centuries ago, the argument is made that religious identities are a danger to the state and must be controlled from above. What is new to the controversy is the near total secularization of European society, at least outside of the public-policy realm. While there is a policy holdover of a formal, institutional relationship between churches and the state in most European countries, the demise of religion as a political force and the secularization of European society have weakened the argument for retaining those relationships. Muslims are religiously active, but they lack the political power that well-established churches have historically enjoyed, thereby threatening their capacity to win state recognition for their religious needs.

V. Religious Recognition and the Promotion of the Liberal State

Those who favor state recognition of religious groups counter that European states have been able simultaneously to promote religious identities and liberal political norms in the past and that they can continue to do so in the future. The most obvious example is the Netherlands, whose model of pillarization is specifically geared toward accommodating the main Catholic, reformed, secular, and now Islamic groups in society. The Dutch have retained the idea that it is appropriate for the state to recognize both secular and religious organizations because it is natural for people to want to express their principles, secular or religious, within and through groups. The result has been a cooperative arrangement between church and state, but the Netherlands still maintains the idea of governmental neutrality. It does so not by equating neutrality with the government withdrawing all support for religion, but by equally accommodating and supporting all communities' desire for education and social services within their

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29 Monsma and Soper, The Challenge of Pluralism, p. 239.
30 Bruce Bower, How Radical Islam is Destroying the West from Within (New York: Anchor, 2007); Christopher Caldwell, Reflections on the Revolution in Europe (New York: Doubleday, 2009); Walter Laqueur, The Last Days of Europe: Epitaph for an Old Continent (New York: St. Martin's Griffin, 2009).
31 Fukuyama, p. 15.
32 Fukuyama, p. 17.

religious or secular traditions. The state is thereby neutral among all religions and between religious and secular systems of belief. Most other European states have corporatist policy traditions which similarly respect communal and religious rights. Even as they gradually became secular, they did so without abandoning their policy commitments to religious groups.

The historical church-state patterns have played an important role in this process in several respects. As we noted previously, past interconnections between religion and the state in countries like Germany and the Netherlands have been carried over into the present on policies related to Muslims. The relations between the state and Christian churches on issues regarding education, for instance, meant that European countries, with the notable exception of France, had by and large implicitly adopted multiculturalism. Muslims simply demanded that states follow through on the logic of this already well-established policy tradition and teach about Islam in the state-run schools, as well as provide public money to separate Islamic schools. European Muslims also benefited from the residual power of the churches. While it is true the churches have nowhere near the cultural prominence or political salience that they did a century ago, they nevertheless enjoy the residue of formal relationships with key state officials. Government leaders work closely with religious leaders in Britain, as an example, in formulating educational policy. The same is increasingly the case in Germany, at least in some *Länder*.[33] These arrangements have aided Muslims because Christian churches have by and large advocated for an expansion of the existing system to include Muslims.[34]

The religious-secular conflict in Europe is not new, but over time, Christian and Jewish groups have largely made their peace with liberalism. The contemporary concern about religion-state policies, therefore, appears to be a specific fear about the capacity of Islamic groups to follow the pattern set by their religious predecessors. Some critics of accommodation are quite explicit in their assertion of an inherent clash between the Christian and the Islamic worlds.[35] However, it is theologically naïve and historically misguided to assume that Islam is any more inherently incapable of making peace with liberal-democratic values than are Christian and Jewish traditions. A vigorous debate is now taking place within Islam about its compatibility with liberal, democratic norms[36], and we have historical examples of Islam coming to terms with religious pluralism.[37]

Other critics of Islam are less direct, but they seem implicitly to advocate what political theorist Jürgen Habermas describes as "a fundamentalism of the Enlightenment."[38] In such a view, the only kind of "safe" religious identity for a liberal polity is one that is thoroughly privatized, politically irrelevant, and fully accepting of the liberal notion of the primacy of individual autonomy over group membership, values that are perceived to be alien to the Islamic faith. In looking at the French situation, Charles Taylor wryly notes that "French atheists are a trifle horrified when religion doesn't take the standard Catholic form that they love to hate."[39] Seen in this light, Islam is problematic because it has yet to reshape itself into the form that religion is "supposed" to "take" in the liberal state.[40]

Political theorists Will Kymlicka and Bhikhu Parekh have noted, however, that the modern individual is a creation of community.[41] Individuals do not choose or live a religion in isolation from others, so the liberal attempt to elucidate the right of religious liberty apart from the community is insufficient. Religion has a strong public facet to it and religious groups are actively involved in a wide variety of service activities. A more robust form of religious freedom requires the state to take positive measures aimed at protecting and promoting the religious expression of groups or communities, since people live out their religious life within faith communities and associations. Finally, defenders of state

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[33] Isabelle de Pommereau, "Why German Public Schools now Teach Islam," *Worldwide Religious News,* January 20, 2010a, available at: http://wwrn.org/articles/32467/?&place=europe&section=islam.

[34] Monsma and Soper, The Challenge of Pluralism, p. 142.

[35] Samuel P. Huntington, The Clash of Civilizations and the Remaking of World Order *(*New York: Simon and Schuster, 1996).

[36] Tariq Ramadan, To Be a European Muslim (Leicester, UK: The Islamic Foundation, 1999); Abdullah Ahmed An-Na'im, Islam and the Secular State (Cambridge: Harvard University Press, 2008).

[37] Monique Dinan, Vidula Nababsing, and Hansraj Mathur, Mauritius: Cultural Accommodation in a Diverse Island Polity, pp. 72-102 in Crawford Young, ed., The Accommodation of Cultural Diversity: Case Studies (New York: Palgrave Macmillan, 1999); Barbara Wake Carroll and Terrance Carroll, "Accommodating Ethnic Diversity in a Modernizing Democratic State: Theory and Practice in the case of Mauritius," *Ethnic and Racial Studies,* 23(1): 120-142.

[38] Jürgen Habermas, "Notes on a Post-Secular Society," *New Perspectives Quarterly*, volume 25(4), p. 7.

[39] Charles Taylor, "Religious Mobilizations," *Public Culture,* volume 18(2), p. 299.

[40] Saba Mahmood, "Secularism, Hermeneutics, and Empire: The Politics of Islamic Reformation," *Public Culture,* volume 18(2): 323-347.

[41] Will Kymlicka, ed., The Rights of Minority Cultures (Oxford: Oxford University Press, 1995); Bhikhu C. Parekh, Rethinking Multiculturalism: Cultural Diversity and Political Theory (London: Macmillan Press, 2000).

accommodation to religion posit that little or no empirical evidence shows that these policies – including state funding for religious schools and social service agencies – somehow fail the liberal requirement that citizens be socialized with a particular set of values. In Britain and the Netherlands, religious schools that receive state aid are required to teach the national curriculum on civic education. Arguably, bringing Muslims into the state educational system is a surer path to their eventual integration than is pushing them into purely separate schools that have almost no public oversight and that are not required to follow the national curriculum.

The same could be said for Germany; better that German Muslims learn about Islam through a public school curriculum that can be geared toward the values of faith and of tolerance for diversity. Despite the hyperbolic claims of the critics of these policies, few resident Muslims have protested the laws in each of these countries banning polygamy, female genital mutilation, and forced (as opposed to arranged but consensual) marriages.

Even in those well-publicized cases where a small number of Muslims are clearly not adopting key liberal values, it is hardly self-evident that church-state practices that accommodate religion are the root cause. European Muslims are disproportionately poor, unemployed, under-educated, and segregated into decaying urban areas. These socio-economic liabilities may be a better explanation than Islam for why a few European Muslims might be having difficulties fully embracing the supposedly liberal, democratic values of many native, non-Muslim Europeans.[42]

VI. Religion and Secularism: The Way Forward

Archbishop Williams' call for some type of legal recognition of Shari'a law in Britain exposed deep fissures throughout Europe on how far states should go to recognize and accommodate the rights of Muslims. For opponents of multiculturalism, state recognition of Muslim claims threatens to undermine the shared norms that define Western liberal states. As David Martin has noted, a consequence of this debate is that it often breeds "nostalgia" for a mythic, unified past that never really existed.[43] In opposing these policies, many Europeans have invented a monocultural

history that ignores the religious, ethnic, national, and linguistic divisions that have existed in every state in the region. In short, the contemporary debate about Muslims is hardly new: states have always had to contend with finding a balance between the rights of minority groups and the promotion of responsible citizenship. It is reasonable to ask to what extent the current controversy about Muslims is different from historical claims that Jews in France or the Scots in England, to cite two examples, could not possibly adopt the national values of their country of residence.

This myopia is not, however, limited to the opponents of multiculturalism. Those who make the case for the public recognition of Shari'a law, as an example, are often guilty of reifying a particular interpretation of the Islamic tradition and thereby ignoring the plural positions within the community that they are claiming to protect. Reactions on the part of the intended beneficiaries of Williams' proposal, British Muslims, to his idea that the state should recognize Shari'a law, were decidedly mixed. The Islamic Human Rights Commission strongly defended Williams, saying that it was "shocked by what seems to be a systematic and malicious misunderstanding of what the Archbishop of Canterbury said in his speech about accommodating religious minorities in Britain."[44]

By contrast, Moulana Boston Qadri, Secretary General of the Confederation of Sunni Mosques in the Midlands, spoke for many other British Muslims when he said that "the United Kingdom is our country and we want to live together under one law."[45] The promotion of group rights might well be necessary, in short, but it raises the question of who speaks for those groups, and what happens when the values and practices of those groups change over time?

What seems beyond dispute is that European Muslims pose a fundamental challenge to all democratic states: how can states simultaneously attend to the rights of minority groups and promote a sense of national identity and citizenship? In resolving this question as it relates to Muslims, European states have largely relied on the ways that they have responded to that query in the past, leaning on well-established church-state patterns and the cultural memory of religious and political resolutions of yesteryear.

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[42] Javaid Rehman, "Islam, 'War on Terror' and the Future of Muslim Minorities in the United Kingdom: Dilemmas of Multiculturalism in the Aftermath of the London Bombings," *Human Rights Quarterly,* volume 29 (1): 831-878.
[43] David Martin, On Secularization: Towards a General Theory (Aldershot, UK: Ashgate Publishers, 2005), p. 160.
[44] Islamic Human Rights Commission, "Press Release: Shock at Backlash Against Archbishop of Canterbury," available at http://www.ihrc.org.
[45] Jasbir Authi, "Muslims Slam Archbishop's Appeal for Islamic Law," *Birmingham Evening Mail,* February 8, 2008, p. 4.

Dr. Shireen T. Hunter
Europe's Muslim Minority:
The Challenge of Integration

I. Introduction

Until the early 1990s, Europe's Muslim population, although gaining visibility, was not a major socio-economic, politico-cultural let alone security preoccupation in the minds of European governments and societies. This situation, however, was set to change.

The first major indication of the potentially multi-faceted challenges, including security, which Muslim minorities could pose to European societies, occurred in the aftermath of the so-called Rushdie incident, when British Muslims poured into streets of London to protest the publication of "The Satanic Verses" by the Muslim and Indian-born British author Salman Rushdie.[1] Following this incident were the attempted bombings in Paris in 1995 in which Algerian origin French Muslims were implicated. These bombings were significant in that they demonstrated a considerable degree of linkage between developments in the countries of origin of European Muslims and even in the broader Muslim World, and the European governments' policies towards these countries and the behavior of European Muslims.

The attacks of 9/11, which directly implicated Muslims with a European connection, followed by the bombings in Madrid in March 2004, and in London in July 2005, heightened the European awareness of the potential risks involved in the continued socio-economic and political marginalization and cultural alienation of their Muslims communities, and especially of the growing number of young adults in these communities. Other events, such as the killing of the Dutch filmmaker Theo van Gogh, the producer of a provocative film on Islam and Islamic culture by a young Muslim of Moroccan origin in November 2004,[2] and the controversy over the publication of cartoons in the Danish daily *Jyllands-Posten* in September 2005 depicting the prophet Muhammad as a terrorist further exacerbated European concerns.[3]

Meanwhile, in the face of a perceived terrorist threat, European governments have adopted much stricter security measures, of which Muslim Europeans have borne the brunt. These measures, alongside growing anti-Muslim feelings among considerable segments of the European population, the questioning of policies based on multiculturalism in European public discourse, and demands for greater assimilation of Muslim minorities, plus the manipulation of this issue by a number of political parties and politicians on the extreme right, have intensified many Muslims' anxieties, sense of alienation from indigenous societies, feelings of marginalization, and have increased their resentment toward their countries of adoption.[4]

Even worse, these negative feelings on the part of some segments of Europe's Muslim communities have elicited patterns of behavior which are ultimately counter-productive and against Muslims' own long-term interests. One example of such counter-productive behavior is the wearing of much stricter forms of *hijab*, which includes the covering of the entire face with the exception of the eyes (*niqab*), and *burqa*, which covers the entire face. Such behavior exacerbates non-Muslims' concerns and is manipulated by the Islamophobic voices in European society, thus creating a vicious cycle.[5] The following statement by a young French Muslim woman in response to the French government's desire to ban *niqab* shows the pattern which leads to this vicious cycle. According to this woman, "The more we are stopped [from wearing *niqab*], the more we'll do it".[6]

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[1] Most observers agree that the Rushdie Affair marked a new state in the development of the European Muslims' identity.

[2] "Gunman Kills Dutch Film Director" *BBC NEWS*, 2 November 2004, available at: http://newsvote.bb.co.uk/mpapps/pagetools/print/new.bbc.co.uk/2/hi/Europe/3974179.stm.

[3] For the background to the cartoons see the interview with the newspaper's editor, Fleming Rose. Austin Cline, "Danish Cartoons of Muhammad: We Have a Right to Criticize & Comment on Islam," available at: http://atheism.about.com/od/danishcartoonsofmuhammad/p/Danishcartoons.mtm retrieved on 16 February 2010.

[4] A good example of this type of politician is the Netherlands' Geert Wilders, who produced a short but highly inflammatory film on Islam "*Fitna*". When no TV company agreed to show it, he posted the film on the internet, and causing considerable tensions. "Profile: Geert Wilders" *BBC NEWS*, 15 October, 2009 available at: http://newsvote.bbc.co.uk/mpapps/pagetools/print/news.bbc.co.uk/2/hi/europe/7314636.stm.

[5] The *hijab* issue, including just the wearing of a headscarf, has always been controversial in France, which has a more strict definition of secularism (*laïcité*), while being largely tolerated in other European countries. But the *niqab* and *burqa* have strained even the patience of the most tolerant of European countries. See: "Burqa Unwelcome in Denmark: PM" *Islam Online*, 20 January 2010, available at: http://.islamonline.net/servlet/Satellite?c=Article_C&cid=1262372549634&pagenam.

[6] Lizzy Davis, "The young French Women fighting to defend the full-face veil" *The Observer*, 31 January 2010, available at: http://www.guardian.co.uk/world/2010/jan/31/french-muslim-burqa-veil-niqab/print.

However, these negative developments have had a silver lining, in that they have drawn greater attention on the part of European governments and publics, and a significant portion of Muslim communities, to the challenge of integration of Islam and Muslims into European societies. Still, the full integration of Muslims in European societies remains a daunting challenge. The following are the most important reasons for this diagnosis: 1) the various levels on which integration has to take place; 2) the many socio-cultural and psychological barriers to integration, both on the part of Muslims and the European publics; 3) the implicit connection between Muslim integration and potential shifts in relative position and influence of other minorities within European societies, and 4) potential implications of greater integration for the direction of Europe's foreign policy, especially with regard to the Islamic world.

The present integration challenge of European countries is largely due to: 1) the past pattern of Muslim immigration to Europe; 2) the emergence of a Muslim underclass as early as the late 1960s as a result of a slowing down of Europe's post-war economic growth and changing patterns of industrial production; and 3) the past inattention to the question of Muslim integration.

The integration of Muslim immigrants has also become more difficult because of the communication revolution. This revolution has enabled immigrant communities to remain closely connected to their countries of origin while being physically removed from them. Perhaps even more problematic is the lack of a clear consensus on the meaning of integration, with Muslims and Europeans often having vastly different understanding of the term. To these problems must be added those emanating from developments in Muslim countries, especially those of the Middle East and South Asia, such as the Palestinian problem, the wars in Iraq and Afghanistan, plus the impact of extremist ideologies on Europe's Muslim youth.

What the above means is that the problem of Muslim integration in Europe must be approached from many angles and a variety of instruments need to be used in order to achieve this goal.

II. Patterns of Muslim Migration to Europe

Today there are somewhere between 16 to 20 million Muslims living in EU countries, plus Switzerland and Norway, with the latter number closer to the mark. The highest concentration of Muslims is in France, Germany and the United Kingdom.

However, nearly all other European countries also have substantial Muslim minorities, and some, like Spain, have seen a substantial increase in the number of Muslim immigrants in recent years. Moreover, in view of the higher birth rate of Muslims as compared to the indigenous populations in Europe, it is safe to expect a substantial increase in their numbers in the coming years, although the more exaggerated estimates by some Muslims or by Islamophobic Europeans are unlikely to materialize.

Table One: Europes' Distribution of Muslims

Country	Number of Muslims	% of total population
Austria	339, 000	4.1
Belgium	400, 000	4
Bulgaria	966,978,000	12.2
Czech Republic	12 to 20,000	——- *
Denmark	270, 000	5
France	5 to 6, 000, 000	8 to 9.6
Germany	3 to 4,000,000	4 to 4.5
Greece	298,000 to 340,000	
Ireland	32, 539	
Italy	825, 000	1.4
Netherlands	945, 000	5.8
Norway	79, 000	2 to 3
Poland	48,000	
Romania	66,000	
Spain	1,000,000	2.3
Sweden	300,000	3
Switzerland	400,000	close to 5
United Kingdom	1.6 to 2,000,000	

Sources: BBC News, European national statistics.
* Islam Online

Europe's Muslims are a heterogeneous lot, and are divided along ethnic, national, sectarian, generational, socio-economic and ideological lines. Moreover, there are significant differences in the ethnic profile of different European countries' Muslim minorities, reflecting past colonial and other experiences. For instance, Britain's past colonial links with the Indian sub-continent have resulted in a large Muslim minority of sub-continental origin, while because of France's colonial connections with North Africa, the bulk of its Muslims are of North-African origin. However, in the past two decades, wars, revolutions in Muslim-inhabited countries, combined with the effects of the Soviet Union's disintegration, which led to new waves of Muslim migration to Europe, have resulted in a greater ethnic diversification of Muslim communities even in these countries. Among the new arrivals are Afghans, Iraqis, Bosnians and

Albanians. The latter form a majority of Muslims in Switzerland and Greece, respectively.

Initial Muslim immigration to Europe was welcomed, and even sought, by the European countries, which needed to boost their labor force for post-war reconstruction. Early immigrants were largely made of single men, who were expected to return to their countries of origin once their employment was completed. The immigrants, too, with some exceptions, initially had no intention of staying permanently in the receiving countries; their goal was to make enough money and then return home.

This expectation of the temporary nature of the immigration process meant that neither the immigrants nor the receiving countries did much to address the many socio-economic, psychological and cultural problems that the arrival of large numbers of immigrants created. For example, no systematic efforts were undertaken to address the problem of housing faced by the immigrants. They were either housed in large public housing complexes or were forced to find dwellings in the mostly dilapidated housing stock of large European industrial cities. The result was the rise of Muslim-inhabited ghettos over time which are now a fixture in the suburbs of many European cities. The ghettoization of Muslims accelerated with Europe's economic downturn in the 1970s, when many Muslim immigrant workers lost their jobs.[7]

However, the expectation of the temporary nature of the immigrants' presence did not materialize. The immigrants did not make enough money to enable them to return home. Moreover, their countries of origin, faced with their own massive economic problems and large-scale unemployment, were not eager to welcome them back home. Consequently, the efforts of some of the European governments to encourage the departure of immigrants by offering them cash compensation did not succeed. On the contrary, policies adopted under family reunification programs swelled the ranks of Europe's Muslim communities, and, more seriously, made Islam a much more conspicuous presence. With the arrival of women and children, head scarves began appearing in European cities, mosques sprouting out of the ground, and Islamic institutions being set up. The Europeans suddenly realized that Islam was "here to stay". This realization, in

turn, led to thinking about the issues of integration of Muslim immigrants and the adoption of different methods by various European countries, determined by the nature of their societies, including their experience with dealing with different Christian faith communities. But it was the appearance of Islamic extremism which made this issue a pressing concern.

III. Defining Integration

Any discussion of the issue of Muslim integration must first address the question of what is meant by integration, because its understanding differs especially between Muslims and Europeans. Many Muslims fear that integration is in reality a code word for assimilation and the complete dilution of the immigrants' Islamic religion and culture. This fear is clearly exaggerated, because all European countries respect freedom of conscience, and hence religion. Consequently, Muslims are in no risk of losing their religion. However, significant segments of the European public are uneasy about a too-visible Islamic presence in the continent. The recent banning of minarets on mosques in Switzerland, despite the Swiss government's official opposition to this measure, as well as President Nicholas Sarkozy's comments that Muslims should be discreet in the practice of their faith illustrate this European sensitivity to the visibility of Islam in the European landscape.[8] Moreover, certain Muslim patterns of behavior, such as not drinking alcohol, wearing *hijab*, and stricter parental control of females, are seen as hampering integration. For these groups, integration means that Muslims must become as much as possible like indigenous populations, and totally blend with the rest of the society.

Nevertheless, there are several criteria according to which the degree of integration can be judged:

1) *Legal Integration*. This means that Muslim immigrants must respect the laws of the receiving countries, even if they find some of these laws as irreconcilable with their religious and moral principles;
2) *Linguistic and Educational Integration*. This means that immigrants must acquire an adequate mastery of the local language. This aspect of integration, in addition to being indispensable for interaction with the

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[7] The late professor Remy Levau dates both the process of economic marginalization of France's Muslim workers and the beginning of the emergence of a Muslim identity to the economic changes of the early 1970s. See: Remy Levau and Shireen T. Hunter, "Islam in France" in Shireen T. Hunter (ed.), Islam, Europe's Second Religion, Westport, Connecticut: Praeger, 2002, p.18.

[8] "Nicholas Sarkozy: Muslims must be discreet about faith" *TIMES ONLINE*, 8 December 2009, available at: http://www,timesonline.co.uk/tol/news/world/europe/article6948905.ece?print=yes&randnu and Nick Cummings-Bruce and Steven Erlanger, "Swiss Ban Building Minarets on Mosques" *New York Times*, 30 November 2009.

indigenous population, is necessary for the immigrants' economic integration;

3) *Economic Integration.* Some recent incidents involving Muslims of relatively comfortable economic background indicate that economic success is not a guarantee against aberrant and even violent behavior. Nonetheless, there is widespread agreement that economic marginalization increases risk of aberrant behavior;

4) *Civil and Political Integration*. This means the active participation of Muslims in the civil and political life of their countries of adoption at local and national levels, and

5) *Cultural and Psychological Integration*. These perhaps are the most difficult dimensions of the integration process, because religion plays a stronger role in shaping Muslims' cultural attitudes, patterns of behavior, and sense of identity, while Western societies have grown increasingly secular.

Moreover, integration is a two way process in the sense that not only the immigrants must work hard to become an integral part of the community, the European communities should also be willing to accept them, something which does not always hold true.

IV. Assessing the Level of Muslim Integration

Since 2001, and largely under the impact of 9/11, Europe's Muslim communities have become the subject of study by a variety of governmental institutions at the level of states and the European Union, and by academic institutions both in Europe and the United States. However, there are still gaps in knowledge, especially reliable statistics, regarding various aspects of Muslim integration. Nevertheless, it is possible to make an assessment of the degree of integration of Muslim communities according to the above-noted dimensions.

IV.1. Legal integration

The vast majority of Europe's Muslims abide by the laws of their countries of adoption. Nevertheless, there are two areas where integration is incomplete. These are: a) Personal status, governing issues such as marriage, divorce, and questions related to veiling, and b) security.

Regarding the first issue, some Muslim practices, are clearly in violation of European legal systems.

Moreover, such practices involve financial costs for various governments in the form of payments of social support of several wives and numerous children. Nevertheless, the persistence of such practices has led to the suggestion by the Archbishop of Canterbury that maybe in these issues, so-called Shari'a courts should govern Muslim affairs.[9] This, however, is problematic, and in the long run would hinder integration, despite easing certain tensions in the short term.

A much better solution would be to encourage Muslim religious and civic leaders to develop more fully what is already known as *Fiqh ul Aqali'a*, or the Jurisprudence for the Minorities. The European Fatwa Council, under the leadership of Sheikh Yusuf Al Qaradawi, has taken upon itself the task of adapting Islamic jurisprudence to the needs of Europe's Muslim minorities. The Council rejects violence and has called on Muslims to respect European laws. In its July 2004 annual meeting, the Council recommended that Muslims "should observe all duties and provide a good example in words, actions and behavior" and "respect the lives and properties of non-Muslims".[10]

Security is another area where the behavior of a very small number of Muslims who engage in acts of terrorism create problems both for the majority of law-abiding Muslims in the form of very strict laws, especially since 9/11, and the European governments who face such security threats. This issue, however, is deeply enmeshed both with the problem of European Muslims' sense of alienation and the broader problems in the interaction between Western, including European, governments and the Muslim world.

IV.2. Linguistic and Educational Integration

The importance of this aspect of integration can be hardly exaggerated. Without the mastery of the language of the receiving countries and the acquiring adequate levels of education, Muslims cannot hope to achieve other forms of integration, notably in the economic sphere, and to improve their overall conditions.

Europe's Muslim minorities have made considerable progress in terms of education, especially if one considers that the majority of the first-generation immigrants were totally illiterate. This also means that the second and third-generation Muslims are linguistically more fully integrated. Yet,

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[9]   "Sharia Law in UK is 'unavoidable'" BBC NEWS, 2 July 2008, available at:
      http://newsvote.bbc.co.uk/mpapps/pagetools/print/news.bbc.co.uk/2/hi/uk_news/7232661.stm.
      There already are a number of Sharia courts in the U.K.
[10] Ali Al Halawani "European Fatwa Council Urges Muslims to Respect Laws" *Islam Online.net*, 11 July 2004, available
      at: http://www.islamonline.net?English/News/2004-o7/11/articleo6.shtml.

the level of Muslims' educational achievement is lower than that of the natives and, in some cases, those of non-Muslim immigrants.

However, according to most studies, what most accounted for this discrepancy were the economic and social conditions of children and young adults of immigrant background, and certain characteristics of educational systems rather than religion.[11] Moreover, certain studies have shown how in some cases Islam has been a beneficial influence and used by young Muslims to improve their educational prospects. According to Tariq Modood, in the UK, "[For] many young Asians, Islam is appealed to – both by boys and girls – as a source of educational aspiration and the motivation to improve oneself and to lead a disciplined, responsible life. It is particularly used by girls to justify and negotiate educational and career opportunities with conservative parents, often of rural backgrounds."[12] Another factor affecting the performance of Muslim students is the low level of expectations of teachers. Because teachers have a low level of expectation of Muslim students, they often do not push them sufficiently. The family situation, as with non-immigrant children, is also important. The more stable and economically and educationally better-off the family, the better the performance of the students.

In short, the issues of linguistic and educational integration are closely interrelated. Moreover, the level of educational achievement plays an important role in the overall economic and social prospects of young European Muslims of immigrant background, and hence their ability to integrate.

IV.3. Economic Integration

Economic integration in this context means that the level of Muslim minorities' employment, including in higher bracket jobs, and earnings should become the same as, or at least close to, the national average. Judged by these criteria, Muslim minorities are far from integrated in the receiving countries' societies. Like all other aspects of Muslim life in Europe reliable statistics

on the economic conditions of Muslim minorities are not easy to come by. Nevertheless, there are certain basic data about the level of unemployment among Muslims, especially among the youth, and types of jobs in which they are employed, and the type and number of businesses owned by Muslims which show that economically, Muslims are placed at the bottom or near the bottom. What is more disturbing is that there has been no significant improvement in these statistics, although in some countries certain gains have been registered. For example, according to 1996 data, in Germany at the time most young female Muslims were undergoing training for a career as a hairdresser, and male Muslims as mechanics. The level of unemployment among male Muslims was very high, while a large number of female Muslims had withdrawn from the labor market. Even those Muslims with university education were finding it hard to find jobs. Finally, most Muslims were employed in low-skill jobs.[13] A similar situation prevailed in other European countries. In France, for instance, youth unemployment among Muslims was around 50%[14]

A 2008 study by the Institute for the Study of Labor shows that even today, the rate of participation in the labor market for Muslims is substantially lower than for the native population. Moreover, according to the study, ethnic minorities "typically have higher unemployment rates, lower labor income, and they are less likely to find and keep jobs than the majority population."[15] In addition, Muslims are more vulnerable to the effects of an economic downturn because they are more likely to have so-called "flexible contracts" with no guaranteed hours of work.

This employment situation means that the number of employed Muslims living below the poverty line is much higher than that for native populations.[16]

All studies point to a direct relationship between the level of education and employment prospects. This means that the economic integration of Muslims would not happen without improvement in the educational field. However, even having a

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[11] According to a study by the Open Society Institute there is increasing evidence that those educational systems in which decisions about future educational career paths are made early through a procession of selection disadvantage students with a minority background. "At Home in Europe Project: Muslims in Europe - A Report on 11 EU Cities, Findings and Recommendations" 200, p. 96.

[12] Tariq Modood, "Ethnicity, Muslims and higher education entry in Britain" *Teaching in Higher Education*, vol.11, no. 2, 2006, p. 250.

[13] Andreas Goldberg, "Islam in Germany" in Shireen T. Hunter (ed.), *Islam, Europe's Second Religion*, pp. 35-36.

[14] See relevant chapters on various European countries in Ibid.

[15] K.F. Zimmerman et al, "Study on the Social and Labour Market Integration of Ethnic Minorities" *IZA Research Report*, No.16, 2008, p.11.

[16] The OSI At Home Project shows that in Belgium 59% of Turks and 56% of Moroccans lived below the poverty line. In the UK the poverty level is particularly high for Pakistanis which is at 67% and Bangladeshis which is 55%. See: P. Keenway and G. Palmer, "Poverty Among Ethnic Groups, How and Why Does it Differ?", York: Joseph Rowntree Foundation/New Policy Institute, 2007.

university education is no guarantee of employment. For instance, in France 25% of Muslims with a university degree are unemployed.[17] Here is where the discrimination factor comes into play.

In fact, according to research, Muslims face discrimination in securing employment even compared to other minority groups and those belonging to other religions. For instance, in Britain, Muslim immigrants from India face more discrimination than Hindus, Sikhs and Christians. Similarly, "Pakistani and Bangladeshi Muslims experience a greater employment penalty than Caribbean or black African Christians."[18] In other words, Muslims pay both an ethnic and a religious penalty in terms of access to employment. In the case of Muslim women, the wearing of the *hijab* can act as a deterrent to prospective employers.

IV.4. Civil and Political Integration

The level of Muslims' civic and political integration also leaves much to be desired, although gains have been made in this regard, especially in terms of civil integration. Particularly impressive has been the development of Muslim civic and other institutions. Political integration, however, is far from satisfactory.

One hindrance to greater Muslim political integration is that in certain European countries, including Germany and France, long-time residents who are not citizens are prohibited from participating in local and national elections. Some fringe extremist Muslim groups also oppose Muslims' participation in the political life of their country of residence, and even the acquisition of citizenship. However, the majority of mainstream Muslim religious leaders and organizations consider it immigrant Muslims' duty to participate in the political life of their country of adoption, by, among other things, actively taking part in the electoral process. In fact, the rate of participation in electoral process for those Muslims eligible to do so is not much below the national averages.

However, the picture is different when it comes to being elected to local and national legislative bodies. Although a number of Muslims have been elected to political office, Muslims still face significant barriers in gaining the trust of non-Muslims, even when they try to play down their ethnic and religious roots. For example, during the French general elections in 2007, socialist voters preferred the opposition party to the Arab/Muslim socialist candidates fielded under the banner of "*diversité*".

IV.5. Cultural and Psychological Integration

In this respect, it is difficult to form generalizations about Muslims. Some Muslims are more culturally integrated, and some can even be characterized as totally assimilated. However, cultural differences between Muslim minorities and the majority societies remain significant and have even widened in some respects.

A major cause of cultural differences is diverging attitudes on gender issues and personal behavior. As European cultures have become far more liberal in these respects in the last forty years, the gap between majority cultures and Muslim attitudes have widened.[19] However, it would be a mistake to think that if Muslims adopted a more liberal moral code, other barriers to integration would disappear.

Psychologically, the level of integration is also quite low. Indeed, many Muslims, notably the youth, feel alienated from the majority societies. They also face identity issues and are torn between the pull of their citizenship and their religion. The attitude of a large segment of European publics and even some governments, which often see observance of Islam as somehow contradictory to loyalty to the state, exacerbates the identity problems of Muslims and intensifies their sense of alienation. More seriously, when Muslims are pressured to choose one identity – that based on citizenship – and ignore other identities, notably one based on religion, they feel alienated, because as noted by one author, "[…] many Muslim youth are comfortable with multiple identities."[20]

However, it is not only observant Muslims who feel alienated. Because of widespread ethnic prejudice, even secular Muslims who want to be integrated face rejection and become alienated. For example, often in France, young Muslims who want to go to clubs are turned away. According to one report, many young Muslims first notice the doors are closed to them "when they try to go clubbing."[21]

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[17] "French Muslims Face Job Discrimination" *BBC NEWS*, 2 November 2005, available at:
     http://newsvote.bbc.co.uk/mpapps/pagetools/print/news.bbc.co.uk/2/hi/europe/4399748.stm.
[18] OSI Report. The report also contains valuable information about the sources of data.
[19] Farhad Khosrokhavar, "Reformist and Moderate Voices in European Islam", in Shireen T. Hunter (ed.),
     Reformist Voices of Islam: Mediating Islam and Modernity, Armonk, NY: M. E. Sharpe, 2008, p. 248.
[20] Adi Greif "Double Alienation and Muslim Youth in Europe" The United States Institute of Peace, available at:
     http://www.usip.org/print/resources/double-alienation-and-muslim-youth-europe, accessed on 18 January 2010.
[21] "French Muslims Face Job Discrimination", *BBC NEWS*, 2 November 2005.

V. Barriers to Integration and How to Overcome Them

The following are the most significant barriers to Muslim integration in Europe.

1) **The lack of consensus on what integration means.** A considerable segment of European publics seem to interpret integration as meaning complete assimilation. This, however, is unacceptable to a majority of Muslims. Moreover, as one Muslim noted at a conference in Salzburg in 2008 which I attended, total assimilation is impossible because of the often sharp differences in the physical traits and looks of Muslim immigration and populations. This problem can be overcome by agreeing on a more precise definition of integration which incorporates legal, economic, civil and political integration, and being more lenient on cultural aspects of integration. In reality, with changes in the socio-economic prospects of immigrants, their level of cultural and psychological integration would also improve;

2) **The socio-economic background of the first generation of immigrants, which has led to the creation of a substantial underclass.** As in the case of indigenous underclass communities, changes in this regard require governmental action at national and local levels, including affirmative action programs.[22] The latter, however, are likely to be unpopular with indigenous populations, and hence difficult to undertake;

3) **The limits of European secularism and multiculturalism.** European societies are still ethnically and culturally homogenous, as compared to, say, the United States. Consequently, the introduction of significant numbers of non-European peoples is more difficult for the indigenous population to accept. In the case of Muslims, religious differences make acceptance even more difficult. Moreover, despite professed secularization, the Europeans are culturally Christian, and hence feel threatened by the overt presence of another religion, especially Islam, in Europe. Sensitivity shown by European publics first to the height of minarets, and recently even to their presence, shows the impact of Europe's essentially Christian culture.[23]

4) **Persistence of pockets of ethnic and racial prejudice.** Part of anti-Islamic feelings in Europe are rooted in ethnic and racial prejudices, and are not directly caused by Muslims' behavior regarding matters such as gender equality, and even the involvement of a very small number of European Muslims in terrorist acts. Rather, anti-immigrant feelings predate the emergence of Islamic radicalism even in the Muslim world. For instance, the term "Paki-bashing" was invented in Britain in the early 1960s. Anti-Arab prejudice in France also has much deeper roots. What the emergence of extremist Islam has done is to enable people to vent ethnic biases under the guise of concern for extremism. In short, it has made ethnic prejudice acceptable and for some even respectable. It would not be easy to overcome this barrier, especially when a number of people, including right-wing politicians, tend to abuse principles such as freedom of speech by writing inflammatory articles about Islam or making derogatory remarks about it. Such acts fail to turn Muslims away from their religion. Instead they help the extremist elements within Muslim communities, undermine the efforts of mainstream and accomodating Muslims, and hamper the integration process. For instance, far more harm than good has come out of the cartoon incident in Denmark;

5) **The impact of European, and Western, policies toward the Muslim world.** As noted earlier, the communications revolution has meant that immigrants are much more connected to their countries of origins. Consequently, what happens there is of concern to them. Under these circumstances, the nature of the relationship between the West and the Muslim world impacts the attitudes of Muslim immigrants. Events such as the Afghan and Iraq wars, and the long-festering Arab-Israeli conflict, intensify Muslim immigrants' sense of alienation, and contribute to their involvement in terrorist acts. The latter, in turn, increases the Europeans' sense of outrage, and hence the level of anti-Muslim feelings, thus creating another vicious circle hampering the process of integration. This barrier is perhaps the most difficult one to overcome, since it involves issues of power and large economic and other interests;

6) **Fear of potential Muslim influence among some groups in Europe.** Certain

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[22] After the Paris riots in 2005, many in France called for an affirmative action program which they called "positive discrimination".

[23] On many occasions, the European public objected to minarets being higher than church spires.
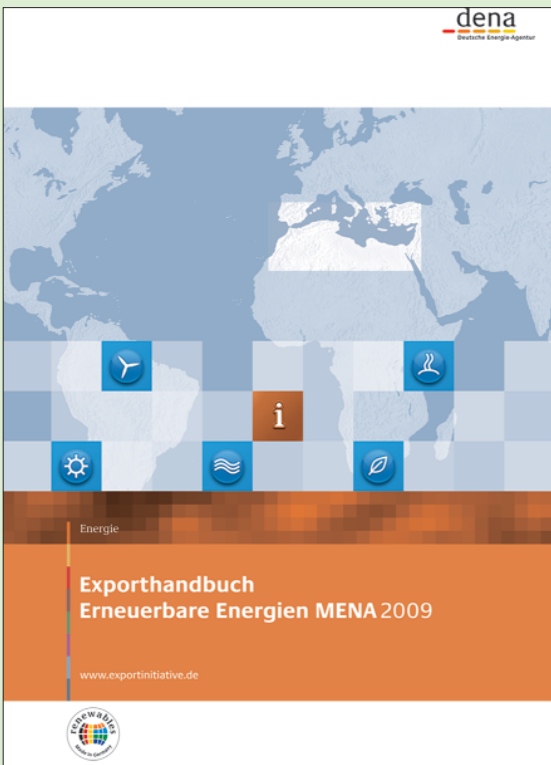
influential groups in Europe are concerned about the influence that Muslims could at some point wield over aspects of Europe's foreign policy. These groups would prefer a non-integrated, and even religiously fundamentalist, Muslim community which remained quiescent, to a well-integrated but activist Muslim community which could become a potential rival;

7) **Destructive patterns of Muslim behavior.** Although this barrier is listed last, it is extremely significant. Paramount among these is involvement in terrorist acts, outdated attitudes toward gender relations and inadequate efforts to become engaged in civic activities beneficial to the entire community. The best way to overcome this barrier is to facilitate other aspects of integration, and to avoid European public overreaction to certain practices such as the wearing of the veil. Experience has shown that such overreaction results in even more anti-social behavior. For instance, resistance to the headscarf has contributed to the rise of *niqab* and *burqa*. In fact, many observers have noted that the best way to get rid of veiling is to ignore it, and hence prevent it from becoming a symbol of Muslim identity.

VI. Conclusion

In conclusion, the integration process will continue to pose significant challenges both to Muslim communities and to the European publics and governments. The best way to succeed in this respect is to acknowledge the real barriers that exist on both sides and tackle them, rather than blame solely cultural factors for the current problems. In particular, Muslims should refrain from any involvement in illegal acts, especially those that infringe directly on the sense of security of the European population. Meanwhile, European publics should not interpret any expressions of Muslim dissent as a sign of disloyalty to state and society, because integrated Muslims would still disagree on occasion with aspects of European policies, especially those toward the rest of the Muslim world. Finally, both sides should remember that integration is a two-way process; Muslims should be willing to integrate as much as possible, but Europeans also should be willing to accept Muslims as they are, even if they are not like themselves in all respects. Multiculturalism, pluralism and secularism are harder to practice than to preach when they impinge on daily life and real interests.

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Prof. Dr. Mathias Rohe
Islam and the Law in Europe

I. Introduction

Muslims have been in Europe since the Middle Ages. However, the presence of significant numbers of Muslims on the continent – now estimated at between 10 and 15 million in Western, Central, and Northern Europe, is a relatively new phenomenon. Most of these Muslims have a background of immigration[1], although many have been born in Europe, and an increasing number are obtaining citizenship in the countries where they live.

In Germany, at present, it is estimated that there are around 4 million Muslims (out of a total population of 82 million), with nearly 2 million possessing German citizenship. Germany has one of the largest Muslim populations in the European Union, with between 2 and 5 million Muslims in France, and about 1.6 million in Britain. Since many of them still have a background of immigration, there are specific migration-related topics to be addressed. These are, however, secular in nature; they do not concern Muslims' religious beliefs or their religious needs as such. The major problems that Muslims face in trying to integrate into European societies, as in Germany, are language difficulties, a lack of higher education, and a comparatively high degree of unemployment. Therefore, the debate on immigration and problems related to it, on the one hand, and the practice of Islam in Europe, on the other, should be seen as two related but nonetheless distinct issues.

Particularly since September 11, 2001, Muslims in Europe and other Western societies have faced what has come to be known as "Islamophobia."[2] According to a poll taken in 2006, a large majority of Germans associate Islam with backwardness, oppression of women, intolerance, and fanaticism.[3] While European societies undoubtedly face significant problems resulting from the small but dangerous number of Muslim extremists, and from larger tendencies toward anti-Western attitudes that may lead to self-segregation,[4] many Muslims in Europe still tend to seek practical solutions for reconciling their own religious beliefs and practices with legal and other codes of secular European societies. Within the last few years, European Muslims have also tried to formulate theoretical statements to clarify their positions on these issues, identify possible conflicts between legal and religious norms, and find adequate solutions for such conflicts.[5] Furthermore, a considerable number of Muslims are not particularly interested in practicing religious rituals, while not denying their Muslim identity as such. Others are attached to *sufi* (mystic) beliefs and practices, while considering the rules of Islamic jurisprudence to be of little importance in everyday life.

At the same time, European legal orders must find ways to address the Islamic identities and practices of the Muslims in their midst. In several European countries, legislation on Islamic norms concerning clothing, ritual slaughtering of animals, and family law practices has either been recently passed or is under consideration. Governmental agencies must accommodate the religious and/or political sensibilities of Muslims who apply for citizenship; courts apply foreign laws in civil matters according to the provisions of Private International Law (PIL) on a daily basis.

In an unusual case dating from 2007 in Frankfurt am Main, Germany, a judge refused to grant legal aid to a woman of Moroccan origin who wanted to obtain an immediate divorce according to the legal-hardship clause because her Moroccan husband had severely beaten her. The judge ruled that, since according to the Qur'ān, sūrah 4:34, the beating of wives was common in the parties' culture of origin, a hardship case could not be established. This ruling errs gravely on several counts: It ignores not only Moroccan law, which

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[1] In Germany this is the usual term for people born in the country with at least one immigrant parent. It tries to avoid the poorly-fitting term "foreigner".

[2] Cf. Konrad-Adenauer-Stiftung (ed.), Arbeitspapier/Dokumentation, Was halten die Deutschen vom Islam, St. Augustin May 2003. The main results of this representative poll show that Islamophobia is mainly to be found among people living in Eastern Germany, among people who have only achieved a low level of education, among workers, the retired and the elderly (60 years or older) (p. 13); nevertheless, the great majority is ready to accept Muslim life in the country to a high degree (summary, p. 15), especially those who have personal contact with Muslims.

[3] Cf. Elisabeth Noelle/Thomas Petersen, Eine fremde, bedrohliche Welt, available at http://www.faz.net/IN/INtemplates/faznet/default.asp?tpl=common/zwischenseite.asp&dox={6E996DC7-5D2B-3660-75DE-A06AB6A51BC2}&rub={594835B6-7271-4A1D-B1A1-21534F010EE1} (figures range between 60 and 91%).

[4] Cf. the contributions in Berlin, Senatsverwaltung für Inneres (ed.), Islamismus, Berlin 2005.

[5] Excellent studies of present developments are presented by Wasif Shadid and Sjoerd van Koningsveld, Religious Authorities of Muslims in the West: Their Views on Political Participation, in id. (eds.), Intercultural Relations and Religious Authorities: Muslims in the European Union, Leuven a. o. 2003, pp. 149, and by Jacques Waardenburg, Muslims and Others: Relations in Context, Berlin a.o. 2003, pp. 241, 308 and 336.

prohibits domestic violence (cf. art. 98 sect. 2, 99 of the family-law code), but also the German law of conflicts, which on the grounds of German public policy rejects the application of foreign provisions that "allow" for domestic violence in such cases. Further, the judge ignored recent interpretations of the Qur'ānic verse in question which say that the term "*daraba*" should be interpreted as "to separate" instead of "to beat."[6] The ruling, which was reversed shortly after it was made public, spurred a debate in Germany over alleged "Islamization" of the German judiciary, echoing concerns raised over the remarks made by British Archbishop of Canterbury, Rowan Williams.

This case was certainly exceptional for several reasons, one of them being that no Muslim – whether party to the case or observer – insisted on the application of such an alleged "Sharia norm."[7] Some anti-Muslim fanatics confused the Frankfurt ruling with the legitimate exercise of rights accorded in European and German constitutional provisions granting freedom of religion. Thus, such fanatics obviously ignore the very constitutional order that they pretend to defend.[8]

Currently, the building of mosques, with their characteristic minarets, has become the focus of debate across the continent on the scope and limits of religious freedom. In Switzerland, a right-wing party has launched a campaign against the building of any new mosques on Swiss soil. In the Austrian state of Kaernten, which is governed by a populist, right-wing leadership, anti-mosque legislation, which some legal experts consider to be unconstitutional, is under consideration in

parliament.[9] The latter is surely the case with respect to a draft law brought into the Italian parliament by the Lega Nord, aimed at practically banning the establishment of mosques.[10] According to a recent poll taken in the Netherlands, between 56 percent and 87 percent of those who vote for major political parties support halting construction of large mosques that have characteristically Islamic architecture.[11]

In Cologne, Germany, the plans of DITIB, a major Muslim Turkish organization, to build a mosque with 55-meter minarets triggered protests not only by extreme right-wing nationalists but also among some otherwise renowned personalities like Ralph Giordano, who have not been previously known to advocate extremist views. The mosque opponents have protested the "visible claim of power" that such mosques represent, also implying obvious distrust of those who wish to build them. At the same time, a broad political majority in Cologne supports the mosque-building plans, arguing that Muslim members of German society have a right to the visibility that comes with the mosques. German law would certainly support this view, provided that the building and environmental codes that apply to construction projects for religious purposes[12] are met. Obviously, visible symbols of Islam are still broadly perceived as foreign – even by people living a considerable distance from Christian churches. These institutions still have the function of "vicarious religion,"[13] as British sociologist Grace Davie puts it: Even people very loosely affiliated to established churches feel comfortable with the activities of the practicing minority and the dominant public presence of their institutions.

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[6]   Cf. Zentrum für Islamische Frauenforschung und Frauenförderung (ed.), Ein einziges Wort und seine große Wirkung. Eine hermeneutische Betrachtungsweise zum Qur'an, Sure 4 Vers 43, mit Blick auf das Geschlechterverhältnis im Islam, Köln 2005.

[7]   The same was true earlier in 2006 when a Berlin opera decided to cancel the performance of Mozart's opera "Idomeneo", which includes scenes of the beheading of gods and prophets including Muhammad (a decision by the creative director of the production), for unspecified security reasons,.

[8]   Some time earlier, a certain Hans-Peter Raddatz went so far as to publicly declare that "a Christian using violence abuses his religion; a Muslim not using violence abuses his religion, too ("vereinfacht lässt sich sagen, ein Christ missbraucht seine Religion, wenn er Gewalt anwendet, und ein Muslim missbraucht seine Religion ebenso, wenn er nicht Gewalt anwendet"), weltwoche.ch Ausgabe 16/04, Weltwoche-Gespräch (Thomas Widmer), accessed on 14.03.07 at www.weltwoche.ch/artikel/print.asp?AssetID=7478&CategoryID=62. For critical voices with regard to this „expert", cf. also Troll, Islamdialog: Ausverkauf des Christlichen? Anmerkungen zum Buch von Hans Peter Raddatz, *Stimmen der Zeit* 2/2002, 1, 7 (called on 04.09.2002 at http://www.st-georgen.uni-frankfurt.de/bibliogr/troll5.htm); Werner Hoebschr, Diffamierter Dialog. Hans-Peter Raddatz und das christlich-islamische Gespräch, *Die neue Ordnung* Nr. 6/2005, (called on 17.03.06 at http://www.die-neue-ordnung.de/Nr62005/WH.html).

[9]   Cf. "Kärnten beschließt ein Gesetz gegen Moscheen", *Die Presse* 11.02.2008, available at http://www.diepresse.com/home/politik/innenpolitik/362068/print.do; „Kritik an Kärntner ‚Moscheen-Verhinderungsgesetz'", available at http://religion.orf.at/projekt03/news/0802/ne080212_kaernten.htm. For current anti-minaret-legislation in the state of Vorarlberg cf. "Vorarlberg verhindert Minarette per Gesetz", *Der Standard* 09.04.2008, available at http://derstandard.at/druck/?id=3296706.

[10] Cf. "Moschee, la legge-muro della Lega 'Non deve nascere una ogni 4 ore'", *Corriere della sera* 22.08.08 (Alessandro Trocino).

[11] Cf. "Twee derde wil stop op grote moskeeën", *Nederlands Dagblad* 05.06.08 (available at http://www.nd.nl/Document.aspx?document=nd_artikel&id=115299. Only among the voters of the left-ecologist (GroenLinks: 30%) and liberal (D66: 39%) parties supporters of such a stop are minorities.

[12] These are privileged under German law; cf. Rohe, Muslim Minorities and the Law in Europe, New Delhi 2007, pp. 83.

[13] Grace Davie, Vicarious religion: A methodological challenge, in: N. Ammerman (ed.), Everyday Religion: Observing Religion in Modern Lives, New York et al 2006,p. 21-37.

II. The European legal framework and Islamic norms

II.1. Background

While the Islamic norms of Sharia law were applied in Europe from the Middle Ages until the end of the Ottoman Empire, within the European Union today, Sharia is applied only in Greece to the Muslims of Turkish and Bulgarian origin in Thrace. The Muslim population of Thrace still lives under Sharia law based on Ottoman family law, which has been continuously reformed by the Turkish state, including a 2002 provision that mandates gender equality.[14]

The starting point for the application of Sharia in Europe today is how national laws are interpreted regarding whether and to what extent "foreign" norms might be applied. This ethos is common to legal orders the world over: A legal system is not multicultural to the extent it concerns the decisive exercise of legal power. Within this framework, however, the legal system has the flexibility to accommodate pluralism to a certain extent. The application of Islamic norms in Europe must differentiate between religious and legal issues. The former are regulated by the European and national constitutional provisions, including Art. 9 of the European Convention on Human Rights (ECHR), which grants freedom of religion. The scope of these laws is not limited to private worship, but also grants an adequate (but not an unlimited) protection of religious needs in various aspects of public law (from building mosques to social-security issues) and private labor law.[15] Nevertheless, European countries vary in their applications of these provisions due to differing interpretations regarding the desirable degree of distance between the state and religion.[16]

France and Switzerland, for example, impose strict separation between state and religion. In France, therefore, officers and pupils cannot display ostensible religious symbols during work or school hours. In Britain, by contrast, Muslim women teachers, officers and lawyers in court may wear veils. In 2007, the president of the Danish Supreme Court, Torben Melchior, said he believed that Muslim female judges and lawyers wearing the headscarf in court furthered integration; Danish Prime Minister Anders Fogh Rasmussen expressed a similar view.[17] Since then, however, the Danish debate has changed course, and the government is now considering legislation that would ban wearing the headscarf in courts.[18] The headscarf issue is sure to continue to occupy broad space in parliamentary and public discussions in Europe, without question mostly by male debaters on all sides.

The European Court of Human Rights has accepted such differing national interpretations, refusing to rule that banning the wearing of headscarves in schools and universities by teachers[19] and students[20] violates Article 9 of the ECHR. Thus the ECHR grants a minimum but considerable European standard of rights, whereas some national constitutions, as in Germany, open even broader space.

In Germany, the most important provisions that regulate religious affairs are Sections 1 and 2 of Article 4 of the German Constitution ("Freedom of faith and conscience, and freedom to profess a religious or philosophical creed, shall be inviolable. The undisturbed practice of religion shall be guaranteed.") This article is not limited to freedom of private religious conviction. It also grants freedom of public manifestation of belief, and the state is obliged to ensure that this right is not unduly limited. Of course there are legal limits for all rights, including religious ones. For example, no one can threaten others on religious grounds. Nevertheless, the German legal system provides far-reaching freedom of religion. This freedom is, according to the unanimous opinion among legal experts and the German government and administration, not restricted to Christianity and Judaism, but also applies to Islam. Furthermore, Art, 3, Sect. 3 of the German Constitution prescribes that no one may be discriminated against, or given preferential treatment, for reasons of religious belief.

In sum, secular legal orders in Europe do not reject religion, and they are not at all anti-religious (*lā-dīnī*), as some Muslims allege.[21] On the

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[14] Cf. Tsitselikis, The Legal Status of Islam in Greece, in: Rohe (guest ed.), Sharī'a in Europe, *Die Welt des Islams* 3/44 (2004), 402, 417 ss.

[15] Cf. Rohe, Muslim Minorities and the Law in Europe – Chances and Challenges, pp. 79, 82-88.

[16] For an overview cf. Potz/Wieshaider (eds.), Islam and the European Union, Leuven et al 2004; European Parliament, Directorate General for Internal Policies of the Union, Islam in the European Union: What's at Stake in the Future?, May 2007 (PE 369.031); Rohe/Elster, Zur öffentlichrechtlichen Situation von Muslimen in ausgewählten europäischen Ländern, in: Bundesministerium des Inneren Wien/Sicherheitsakademie, Perspektiven und Herausforderungen in der Integration muslimischer MitbürgerInnen in Österreich, Wien May 2006, 51 pages.

[17] "Rasmussen, rest çekti: Başörtülüleri rahat biraktın", *Zaman Denmark* 07.06.2007 (Hasan Cücük).

[18] Cf. "Kopftuchverbot für Richterinnen", *Sueddeutsche Zeitung* 16.05.2008, p. 8.

[19] Dahlab/Switzerland 25.02.2001, NVwZ 2001, pp. 1389.

[20] Leyla Shahin/Turkey 20.11.2005, NVwZ 2006, pp. 1389.

[21] Cf. Heiner Bielefeldt, Muslime im säkularen Rechtsstaat, Bielefeld 2003, pp. 60 for critical Muslim voices.

contrary, European legal orders open broad spaces for religious life and beliefs, including the establishment of religious organizations, places of worship, and private schools, not to mention religious instruction in public schools (in the German educational system) and social-security payments for religious burials and other rites for those in need.[22] It is only that the states themselves must be neutral and not interfere in religious affairs. The most important result of this legal secularism is the equal of religions under law, including the freedom not to adhere to a religion or the freedom to change one's religion.[23] Across the European continent, there is broad consensus that such neutrality is a necessary prerequisite for true religious freedom. Accordingly, a prominent French Muslim has called this a system of "positive neutrality" (i.e. toward religion).[24]

Two points regarding the European legal framework and Sharia norms should be underscored. First, the fundamental principles of democracy, the rule of law and the protection of human rights are not subject to reduction or abolition. Second, the vast majority of Muslims in Europe supports these principles rather than reject them, even while a small minority of Muslim extremists demands the application of traditional Islamic penal law. Only in the UK is a broader discussion among Muslims on the introduction of a Muslim law of personal status and inheritance. According to a poll taken of 500 British Muslims in 2006, 40 percent supported the introduction of Sharia law in predominantly Muslim areas of Britain.[25] Because some aspects of Islamic law in these spheres contradict the principles of the existing secular legal order (see below), the broader British public has roundly and soundly rejected these initiatives.

II.2. The application of Islamic norms: Scope and limits

a) *Religious norms* are applicable on three levels, two formal and one informal. First, adherents of all religions must be able to enjoy their individual and collective religious rights equally, including religious practice in public spaces. This is granted by the European Convention on Human Rights as well as by national constitutional provisions. Therefore, no religious norm can be considered to be "foreign" or "alien" or "domestic", respectively. Religion has its effects, even on penal law. Admittedly, the effects of religious convictions on penal law should be marginal, given the fact that penal law provisions aim at granting a minimum common standard which cannot be dispensed with. Nevertheless, male circumcision among Muslims or Jews performed by the state may well qualify as a (minor) corporal harm, but nevertheless is taken to be justified on acceptable religious grounds.[26] Religion can also affect social-security laws: For example, German courts have ruled that in cases of financial need, social-security funds must be used to pay the costs of a Muslim boy's circumcision,[27] the ritual washing of the body of a deceased Muslim,[28] and burial in a Muslim cemetery in the deceased's country of origin, including transport costs, if there is no available Muslim cemetery in Germany.[29] On the other hand, in 2003, the Administrative Court of Mainz dismissed the claim of a Muslim woman wearing a *niqāb* (a type of veil that leaves only the eyes visible) for welfare support. The ruling determined that this special kind of clothing would prevent the woman from finding employment and that she did not produce any explanation for why it was necessary for her to wear it.[30]

Furthermore, German social-security laws treat polygamous marriages as legally valid, provided that the marriage contracts are valid under the laws applicable to them at the place of their formation.[31] (Of course, polygamy fundamentally contradicts German and other European legal standards, therefore it cannot be contracted legally in Europe.) The legal reasoning, however, is that even women in polygamous marriages should not be deprived of their marital rights, including maintenance of their married status. Thus, according to German social-security law,[32] widows' pensions are divided among widows who were living in polygamous marriages. However, German law differentiates between mainly private aspects of marriage and predominantly public ones, especially those

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22 For details concerning several European states cf. Aluffi/Zincone (eds.), The Legal Treatment of Islamic Minorities in Europe, Leuven 2004.

23 For the intrinsic connection between full religious freedom and secularism cf. Bielefeldt (n. 21), pp. 15.

24 Soheib Bencheikh, Marianne et le Prophète – L'Islam dans la France laïque, Paris 1998, pp. 57.

25 Available at http://www.icmresearch.co.uk/pdfs/2006_february_sunday_telegraph_muslims_poll.pdf (p. 14).

26 For Germany cf. Gropp, Straftrecht Allgemeiner Teil, 3rd ed. 2005, § 6, n. 231; Tröndle/Fischer, StGB, 54th ed. 2007, § 223 n. 6 b. Certainly, major harms like female mutilation will never be justifiable or excusable on religious or cultural grounds whatsoever; cf. Rohe, Islamisierung des deutschen Rechts?, JZ 2007, pp 801 ss.

27 OVG Lüneburg FEVS 44, pp. 465 ss.

28 VG Berlin NVwZ 1994, p. 617.

29 See OVG Hamburg NJW 1992, pp. 3118, 3119.

30 VG Mainz 26.02.2003 (Az. 1 L 98/03.MZ) – not published.

31 Cf. LG Frankfurt a. M. FamRZ 1976, p. 217; LG Osnabrück NJW-RR 1998, p. 582; AG Bremen StAZ 1991, pp. 232, 233; Staatsanwaltschaft bei dem LG Muenchen I IPRspr. 1996 No. 62; VGH Kassel NVwZ-RR 1999, pp. 274, 275.

32 Cf. para 34 sect. 2 Social Code I.

relating to immigration law. Legislation governing the latter aspects provides only the first wife in polygamous marriages with marital privileges within its scope of application, for example residence permits.[33] Treatment of polygamous marriages in Germany differs from legislation in other European countries. In England, courts have rejected the claim to a widow's pension by a woman who was engaged in a polygamous marriage, resulting in none of the wives in the marriage receiving a payment.[34]

From a legislative perspective, two types of goals must be considered. One goal would be to establish clear-cut legal norms in absolute accordance with prevailing social norms, in this context, monogamous marriages as the only valid type of marriage. This would lead to rejection of polygamous marriages that are legal in other parts of the world and would leave the weaker parties without legal protection, which could encourage the creation of a parallel system of social norms among the parties involved. The other goal would be to render justice for individuals who have legally entered such marriages in other jurisdictions and who now have claims in a jurisdiction that rejects such marriages. In such a case, it has to be made clear that accommodation of individuals does not mean acceptance or approval of polygamy, even though it may be interpreted as such. Thus, either solution has its problematic aspects.

The second formal level on which freedom of religion is granted is related to constitutional guarantees of freedom of religion that may have an impact on relations governed by civil law – specifically (but not exclusively) employment law. In this field, possible conflicting interests between employers and employees have to be weighed with respect to the employee's religious needs on one hand, and the employer's needs on the other.[35] In general, most Muslims do not face legal problems concerning their employment. For those who need to pray during work hours, acceptable solutions can be found in most cases. Many either pray during regular breaks or concentrate their prayers in the morning and evening. In Britain, a bus driver

claiming the right to interrupt his work five times a day for prayer lost his case for obvious reasons.[36] On Fridays, employers often allow breaks for Muslim employees to participate in communal prayer at mosques or allow employees to finish working earlier in the day. Muslim workers are also generally allowed to take time off during the feasts of *Eid al-Fitr* at the end of Ramadan and the *Eid al-Adha* (Festival of Sacrifice) in the month of pilgrimage. If the need to be present for prayer or celebration of feast days conflicts with employment requirements, Muslims generally rely on the Islamic principle of necessity (*darūra*) which allows them to choose a minor evil over a major one. In this case, the major evil would be the loss of the necessary source of income. The last reported case in Germany concerning a conflict between employment law and the requirements of Muslim prayer or *Eid* feasts was in 1964,[37] indicating that mutually acceptable solutions to such potential conflicts are readily found. A new case in 2009[38] was decided in favour of a Muslim employee who wanted to perform the ritual pilgrimage to Mecca. Her interests[39] were taken to be of superior importance in comparison to the needs of her employer.

However, the wearing of headscarves by Muslim female employees remains problematic. In many cases in which such employees deal with the public (e.g. in warehouses, offices, etc.), employers do not allow them to wear headscarves at work. In the German state of Hesse, the employment of a Muslim clerk working in a rural warehouse was terminated when she refused to work unveiled. The company had a rule that employees would dress so as not to offend customers. The employer testified that he was not personally bothered by the headscarf, but that there was evidence that the clientele would not accept being served by a veiled clerk and would take their business elsewhere. The employee lost her case in the original trial and in the Labour Court of Appeal of Hesse on the same grounds.[40]

The ruling evoked considerable and in part understandable irritation among Muslims in Germany. In such cases, the state alone has the prerogative of

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[33] Cf. OVG Koblenz 12.03.2004 (10 A 11717/03), not yet published.
[34] Court of Appeal in Bibi v. Chief Adjudication Officer [1998] 1 FLR 375: None of the widows is accepted to be one legally; cf. the critical remarks of David S. Pearl, Islamic Family Law and Its Reception by the Courts in England, Harvard Law School Islamic Legal Studies program, Occasional Publications May 2000, p. 14.
[35] For details cf. Rohe, Schutz vor Diskriminierung aus religiösen Gründen im Europäischen Arbeitsrecht – Segen oder Fluch?, in: Krause/Veelken/Vieweg (eds.), Gedächtnisschrift fuer Wolfgang Blomeyer, Berlin 2004, pp. 217.
[36] Reported in Shadid/Van Koningsveld, Religious Freedom and the Position of Islam in Western Europe, Kampen 1995, p. 102.
[37] LAG Duesseldorf JZ 1964, 258.
[38] ArbG Koeln (Az. 17 Ca 51/08), not yet published.
[39] The 53 year old woman was employed in a school's administration. The next period of holidays coinciding with the time of the pilgrimage would have been 13 years later; she would then have reached the age of 64. Additionally, she feared that her mother, who is taking care of her disabled child, would not be able to continue this at that time.
[40] LAG Hessen NJW 2001, 3650.

interpreting how to grant religious freedom according to the Constitution. In the field of private law (regulating private legal relations, including labour contracts), however, constitutional rights exert a so-called "indirect" influence. This means that they have to be taken into consideration without necessarily being enforced in a similarly direct and far-reaching manner as is the case in conflicts between individuals and the state, because in the latter constellation it is only the individual who is protected by basic rights like the freedom of religion. In private cases there are two constitutional rights in conflict: the freedom of religion in favor of the employee, and the freedom of personality, which can be interpreted as the creation and termination of contractual relations according to the personal interest of the employer. Nevertheless, the Federal Labor Court finally accepted the claim of the appellant who wore her headscarf to work at the Hesse warehouse.[41] Stressing the great importance of religious freedom, the court ruled that this freedom cannot be abrogated by mere suppositions of possible economic detriment to the employer. Even in case of proven economic detriment, the employer would first have to consider whether the employee could work in a less sensitive capacity before being entitled to terminate her contract.

Finally, religious norms can be applied on a widespread basis on an informal level, merely by practicing them. It is mainly in the sphere of religious rules – concerning the relations between God and human beings (*'ibādāt*) and the non-legal aspects of the relations between human beings (*mu'āmalāt*) – where a European Sharia (in this context: Islamic "theology") is possibly developing.[42] In such cases, the opinions contained in religious rulings, or *fatwas*, would distinguish between legal validity of the transactions at stake and their religious acceptability. This is not a new development in Islam, but it may rely on the traditional distinction between the religious and the legal dimensions of human behavior, e.g. the distinction between the categories of what is considered to be forbidden (*harām*), and what is considered to be "invalid" (*bāṭil*).[43]

b) Foreign *legal norms* – Islamic provisions among them – are applicable on four levels, three formal and one informal. With respect to the formal application of legal norms, conflicts between the law of the land and religious law must be resolved. Moreover, the state has no control over informal methods of applying religious legal norms as long as it is not called upon to adjudicate issues between the parties involved.

aa) Private International Law (which regulates conflicting laws pertaining to civil matters) is one level on which Islamic legal rules can be directly applied. Today, there is no legal system known to refuse the general application of foreign legal norms. Civil law essentially regulates the legal relations between private individuals, whose welfare is of prime importance. This includes the continuity of existing legal relationships (such as marriage) when crossing "legal borders" (the so-called "theory of vested rights" developed by the eminent British and US-American lawyers Dicey and Beale). Nevertheless, the legal community in a particular country may decide that in certain matters the same substantial law should be applicable to everyone resident there. This would be the case particularly in matters touching the roots of legal and societal norms like those regulated by family law. The question as to whether foreign or domestic law should be applied must therefore be determined, and this is done according to the provisions of Private International Law.

When foreign legal norms are applied, the result must comply with the law of the land and public policy. There are many provisions in the Sharia that do not contradict European laws (in the area of contract law, for example) and therefore may be applied within the framework of existing laws. The main conflicts between Islamic and European laws concerning family matters and inheritance arise over constitutional (and human) rights such as gender equality and freedom of religion, including the right not to believe. Provisions reflecting classical Islamic law preserve a strict separation between the sexes with respect to their social roles, as well as far-reaching segregation of religions under the supremacy of Islam.

For example, according to German private international law, the application of the Islamic legal norm of unilateral divorce by the husband (*talāq*) would contradict secular state law in cases where the wife was not able to claim her legitimate interests or was not even informed about the divorce. In other cases, where the prerequisites for divorce according to the law of the land would be fulfilled in a comparable way, the legality of such a divorce according to Islamic tenets would be accepted by the controlling legal authority. On its

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[41] BAG NJW 2003, 1685.

[42] Cf. Rohe, The Formation of a European Shari'a, in Malik (ed.), Muslims in Europe, Münster 2004, pp. 161; excellent studies of present developments are presented by Shadid and van Koningsveld, Religious Authorities of Muslims in the West, in id. (eds.), Intercultural Relations and Religious Authorities: Muslims in the European Union, Leuven, Paris, Dudley, 2003, 149, and by Waardenburg, Muslims and Others, Berlin, New York 2003, pp. 241, 308 and 336.

[43] Cf. Rohe, Islamisches Recht: Geschichte und Gegenwart, 2. ed. Munich 2009, pp. 9.

face, a husband's unilateral right to divorce his wife contradicts gender equality norms, as well as the norm of state's sole authority to adjudicate divorce cases. Nevertheless, in Germany, the norms protecting the public order are not intended to prohibit the application of foreign norms as such.[44] In Austria, however, policy is different: The Supreme Court[45] refuses to accept any kind of *talāq* whatsoever. Here again, the crucial question is whether legislative bodies and the courts compare foreign legal norms categorically as is done with their normative domestic "counterpart" in abstract, or whether the results of the application of foreign norms only must be controlled in specific cases.

bb) A second area for indirect application of foreign legal norms exists within the framework of so-called "optional" civil law. For example, there are various methods of investment that do not violate the Islamic prohibition against usury (*ribā*, which according to traditional interpretations means not accepting or paying interest).[46] To enable business financing, Islamic law permits the formation of types of companies (*murābaha* and *mudāraba*) for this specific purpose. In the UK a special vehicle for "Islamic mortgages" has been developed, enabling Muslims to purchase real estate while avoiding conflicts over *ribā*. The German state of Saxony-Anhalt has offered "Islamic" bonds that replace interest payments with broadly accepted instruments of financial participation to attract Muslim capital.

In the field of matrimonial law, the introduction of Islamic norms into marriage contracts has also been accepted within the framework of optional German civil law. Thus, contractual conditions regulating the payment of dowries (*mahr* or *sadāq*) in Muslim marriages are possible and generally accepted by the courts.[47]

cc) In addition to general rules of private international law and optional civil law, a few European states have introduced Islamic legal provisions concerning family and inheritance matters that can be applied in Muslim communities on a voluntary basis. In Britain, Islamic institutions may apply to be able to register marriages. Furthermore, according to the Divorce Act of 2002, which regulates religious marriages, courts can make the granting of a civil divorce conditional on the dissolution of a religious marriage.[48] The Adoption and Children Act of 2002 amended the Children Act of 1989 by provisions introducing "special guardianship" measures to enable parental relationships by legal means other than adoption, which is forbidden by Islamic law.[49] This option is not formulated on the basis of religion, however, and is thus universal.

In Spain, Islamic legal norms regulating marriage contracts have been applied to Muslims[50] in conjunction with compulsory secular state provisions for the registration of these marriages since 1992.[51] On the other hand, the Spanish legislative has also amended Article 107 of the civil code, which regulates the right to divorce in order to enable women living in Spain to obtain a divorce even if matrimonial law in their country of origin or the country in which they married prevents them from doing so. The legislature has stated expressly that this amendment was intended to provide domestic legal remedies for Muslim women in particular, thus limiting the application of foreign norms.[52] In sum, the formal incorporation of Islamic norms is the exception, not the rule, and relates merely to formal legal provisions like the procedural aspects of marriage contracts (not the substantive ones). In other European countries, such legislation has not been proposed. In Germany, most Muslims of Turkish and Bosnian origin would vehemently oppose the introduction of Sharia legal norms – according to their understanding, traditional Islamic family and inheritance law, which was abolished in their home countries long ago, preserves unacceptable patriarchal concepts and the legal inequality of religions.

Moreover, personal status laws based on the traditional norms of particular religious communities often conflict with the modern legal codes that

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44 Cf. Rohe, Islamic law in German courts, *Hawwa* 1 (2003), pp. 46, 50.
45 OGH decision of 31.08.2006 (6Ob189/06), *Zeitschrift für Rechtsvergleichung* 2007, 35; OGH decision of 28.06.2007 (3Ob130/07z); both decisions available at http://ris.bka.gv.at.
46 Cf. Baelz, Scharia Jet Set: Islamic Banking, *inamo Berichte und Analysen* 57 (spring 2009), 14-17 with rich factual background.
47 Cf. BGH NJW 1999, p. 574; OLG Celle FamRZ 1998, pp. 374; OLG Saarbruecken NJW-RR 2005, pp. 1306
48 Cf. Lord Nazir Ahmad, Notes on the Judicial Situation of Muslims in the United Kingdom, in: Schneiders/Kaddor (eds.), Muslime im Rechtsstaat, Münster 2005, p. 72; Khaliq, Islam and the European Union: Report on the United Kingdom, in: Potz/Wieshaider (eds.) (n. 16), pp. 219, 246 ss.
49 Cf. Qur'an surah 33, 4. s ; art. „*tabanni*" in: *wizārat al-awqāf, al-mawsūʿat al-fiqhīya* vol. 10, Kuwayt 1987; for present legal orders in the Islamic world cf. D. Pearl/W. Menski, Muslim Family Law, 3rd ed. London 1998, ch. 10-25 ss.
50 Cf. Mantecón, L'Islam en Espagne, in: Potz/Wieshaider (eds.) (n. 16), pp. 109, 130 ss.
51 Cf. Article 59 Código Civil in conjunction with the administrative provision of the general directorate of the Civil Registry and the Notary from 10 February 1993.
52 BOE 30-09-2003, Ley Orgánica 11/2003, de 29 de septiembre, de medidas concretas en materia de seguridad ciudadana, violencia doméstica e integración social de los extranjeros, 4.

secular European countries formulate and enforce for their populations as a whole. In other parts of the world, some states grant legal authority to the leadership of religious communities in questions of personal status, family, and inheritance. Such matters are perceived to be exclusively "private", and the existing, comparatively weak states do not readily interfere into these matters. While this approach enables communal self-determination, it can also empower the socially strongest factions to the detriment of weaker individuals.

In contrast, European states maintain centralized control over the definition and enforcement of core rights and duties of the citizenry as a whole, irrespective of ethnic, religious, or other group affiliation. Thus when conflicts arise between commonly defined individual rights and collective claims, the former will prevail. The constitutions in force would not permit another solution such as the introduction of laws that would abolish gender-neutral equal rights in favor of a system of mere "equal dignity," for example, because distinguishing between the sexes on the basis of typical social roles would clearly violate constitutional norms. Thus, personal and family matters cannot be seen as merely "private."

dd) Besides these formal ways in which Islamic legal norms can be applied, people are in principle free to find agreement through non-judicial, alternative dispute resolution (ADR) measures and to seek private solutions to social problems that are compatible with state legal codes and fall within the boundaries of public policy. Recent research indicates that many European Muslim immigrant communities maintain the structures of family life from their countries of origin,[53] and can be reluctant to use legal remedies available in the countries where they live because they believe that they are bound to different legal orders. This is also true for some Muslims who were born and raised in Europe or who have converted to Islam, insofar as they consider Islamic legal norms to be an integral part of their religious beliefs.[54] Others are simply unaware of the fact that, with regard to certain matters of family law (e.g. marriage and divorce), the secular laws of the land must be observed or else the intentions and actions of the parties

involved are not legally valid. In Germany, some refugees from Iraq and other war-torn countries lacking functioning legal systems were not able to obtain the necessary documents for marriages considered valid by the state, so instead they "married" according to Islamic custom, with the participation of an imam and witnesses.

Thus, a marriage contracted solely according to traditional Islamic legal norms may be socially accepted within the community, but it deprives the spouses of legally enforceable rights in the state of residence with respect to marriage-related maintenance and inheritance provisions of civil law. Further, women in such marriages cannot obtain divorces in state courts because they are not regarded as married according to the law of the land. Therefore they seek "internal" solutions within their community.[55] Some religious extremists and traditionalists openly argue that Muslims should not accept the legal norms and judgments of "infidels" but instead should establish their own mechanisms for dispute resolution, and elect their own judges.[56] The question is whether such methods of extra-judicial dispute resolution create viable solutions for accommodating the interests of the parties involved in a manner that are consistent not only with the community's standards but also with the indispensable law of the land.

Successful and fair ADR has two key prerequisites: first, for the parties to choose alternative dispute resolution of their own accord, on the basis of mutual interest, and secondly, for qualified arbitrators or mediators to apply norms that address the legitimate interests of each party equitably. However, in the context of immigrant communities that tend to be socially segregated, the freedom to agree or disagree with the result of an ADR can in essence be restricted to the one option that is deemed socially respectable by the community as a whole – especially if ostracism can result from choosing the "wrong" option. If such social pressure is exerted on the weaker party to an ADR, and the state recognizes the authority of communitarian bodies that adjudicate ADRs, then the weaker party could be deprived of protections granted by the law of the land and enforced by state courts. Formal or official equality under

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[53] Cf. Badawi, n. 90; Simonet, L'étranger entre deux droits: les facteurs d'adhésion des populations étrangères aux systèmes judiciaire et juridique français, in: Kahn (ed.), L'étranger et le droit de la famille, Paris 2001, pp. 118, 139 ss.; Rude-Antoine, La coexistence des systèmes juridiques différents en France: l'exemple du droit familial, in: Kahn (ed.), L'étranger et le droit de la famille, Paris 2001, pp. 161.

[54] I have personal knowledge of such a case dealing in Bavaria in 2007, where a woman tried to get divorced after having entered solely into an "Islamic" marriage in Germany, which is not considered to be valid under German law, and therefore cannot be dissolved by state courts. Other cases were reported to me in Canada concerning Somali women, and in the UK.

[55] Cf. Shah-Kazemi, Untying the Knot. Muslim Women, Divorce and the Sharia, London 2001, p. 47.

[56] Cf. Ibn Baz/Uthaymeen, Muslim Minorities – Fatawa Regarding Muslims Living as Minorities, Hounslow 1998, pp. 71, in particular; The Fiqh Council of the Muslim World League on its 16. session in Mecca, reported in "A message from Muslim scholars to Muslim Minorities in the West", *Daawah* No. 4 1422 A.H./Feb. 2002, 8, 11.

conditions of material or social inequality usually leads to the preservation of inequality. Consequently, most European legal orders exempt core family matters from definite private mechanisms of conflict resolution, thus granting an equal standard of protection for every resident. Only in the UK a system of Islamic conflict resolution has emerged[57], which is very much tied to the specificities of Muslims in Britain, and cannot serve as a model for other European states.[58] Certainly, an individual's marital status is a private matter. Nevertheless, the institutions that administer personal status law, and the balance of rights and duties between married couples, not only affect society as a whole but also reflect society's basic common convictions about this very important social institution. While it is the purview of legislatures to establish an order of personal status that is compatible with prevailing social values and mores, extra-judicial ADR can serve as a vehicle for achieving socially acceptable solutions in communities that are, in some respects, segregated from society as a whole. Members of the community who refuse to use its special bodies for conflict resolution may be accused of undermining the standing of the community and can also harm their own status within it. Conversely, accepting the authority of such communitarian bodies can lead to ongoing cultural segregation of individuals seeking to satisfy their own particular needs within broader society. In this context, the five Muslim Arbitration Tribunals set up in 2007 under the English Arbitration Act of 1996 to deal with family disputes deserve even more attention, since their judgments are officially recognized and their control by state courts is limited. It should be noted that only a few Western legal orders would open family matters to formal, officially recognized non-state dispute resolution. This is due to the typical imbalances of power within families, requiring objective protection by state bodies. On the other hand, state bodies have to be aware of possible cultural sensitivities and special living arrangements, and take these into account when dealing with the parties involved[59] without changing the contents of the applicable law.

It is remarkable that many European examples of harmony between Muslim and secular sensibilities abound. In 2002, the Central Council of Muslims in Germany declared in its charter on Muslim life in German society ("Islamic Charta"[60]) that Muslims are content with the harmonious system of secularism and religious freedom provided by the Constitution. According to Article 13 of the charter, "The command of Islamic law to observe the local legal order includes the acceptance of the German statutes governing marriage and inheritance, and civil as well as criminal procedure." In 2005, the Union of Islamic Organizations in Zurich expressly stated in its Basic Declaration that the Union does not intend to create an Islamic state in Switzerland, nor does it place Islamic law above Swiss law.[61] The declaration also expresses appreciation for Swiss marriage and inheritance laws. Similarly, the renowned French imam Larbi Kechat has stated that "Nous sommes en harmonie avec le cadre des lois, nous n'imposons pas une loi parallèle." ("We are in harmony with the frame of laws and do not impose a parallel law").[62] In Belgium, it has been reported that the vast majority of Muslim women subject to both the rules of communal family law and the broader society's advocacy of women's rights claim the protection of Belgian substantive civil law.[63]

III. Muslim positions and attitudes toward the European secular democratic state under the rule of law

There are five identifiable models of Muslim group attitudes toward secular state legal and social frameworks in Europe. However, it is difficult to quantify these models as there is a paucity of reliable empirical data, although research is currently being conducted in this field.

III.1. The pragmatic "muddling-through" approach

The rule of law in the secular democratic state is not important to many Muslims for several reasons that include rejection of traditional normative approaches and a preference for the ways of mysticism. Many European Muslims simply accept the prevailing secular legal and social frameworks in their daily lives without reflection or question, even as they face problems related to their relatively weak economic and/or educational standing. Some complain that they are prevented

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[57] Cf. Pearl/Menski, (n.49),ch. 3-81.
[58] For details cf. Rohe (n. 43), pp 376-377, 381.
[59] Evidence from Canada shows that a lack of cultural sensitivity can be a major reason for avoiding the help of state bodies; cf. Anne Saris/Jean-Mathieu Potvin/Naïma Bendriss/Wendy Ayotte/Samia Amor, Etude de cas auprès de Canadiennen musulmanes et d'intervenants civils et religieux en résolution de conflits familiaux, Montréal Mars 2007, 82 s.
[60] An English version can be found at http://www.islam.de/3037.php (called on 27.06.2008).
[61] Vereinigung der Islamischen Organisationen in Zürich (VIOZ), Grundsatzerklärung v. 27.03.2005.
[62] Larbi Kechat: le coran a été relevé au VIIe siècle: dans le contexte socioculturel de l'époque, entretien réalisé par Guy Gauthier, in *Panoramiques* No. 29 (2e trimestre – 1997), L'islam est-il soluble dans la République, pp. 183, 189.
[63] Cf. Foblets/Overbeeke Islam in Belgium, in: Potz/Wieshaider (eds.), Islam and the European Union, Leuven/Paris/Dudley 2004, p. 34.

from political participation because they do not have citizenship in the countries where they live. Several polls e.g. in Austria indicate that the "pragmatics" are the largest identifiable group among Muslims in Europe. Polls of Turks in Germany and of Germans of Turkish origin[64] indicate that a vast majority accept democracy as the best political system, and actively support it. A 2007 study of Muslims in Germany supports this view, while showing that there is also a significant minority of 10 to 12 percent who are susceptible to radicalization (which is a number not significantly higher in comparison to other parts of the population of the same age and level of education who are open for radical e.g. right-wing views).[65] One should not forget that a considerable number of Muslims has a more or less lax attitude towards religion and religious practice in daily life. From a religious point of view, there are no obstacles to actively participating in a democratic secular state and its society for Muslims with "muddling-through" attitudes.

III.2. The "Ex-Muslim" approach

In recent years, some individuals have formulated extremely critical positions toward Islam due to their own very negative personal experiences with Islam, particularly women such as Ayaan Hirsi Ali in the Netherlands and Necla Kelek in Germany. The Central Council of Ex-Muslims in Germany espouses harsh, anti-religious sentiments, ranging from demands for a fundamental reform of Islam to claim that because Islam is not prepared to accept any reforms whatsoever, the choice between the secular democratic state and adherence to Islam becomes inevitable. As Kelek puts it:

> "For me, Islam as a Weltanschauung and a system of values cannot be integrated into European societies. (…) It lacks the institutional, structural, and theological prerequisites for that. (…) Islam is not capable [of] integration, whereas the [individual] Muslim as a citizen is. He may preserve his belief and his identity in our society, as the European tolerance of Enlightenment perceives the members of all religions to have equal rights."[66]

This approach aims at a total assimilation of Muslims and the acceptance of secular concepts while abandoning religion.

III.3. Islamist approaches

There exist small but dangerous groups of Muslim extremists who reject the European secular social order and demand systematic and comprehensive supremacy of Islamic norms (Islamists). They denounce European societies as lacking any moral standards and European legal orders as consisting of weak and arbitrary human laws that are fundamentally inferior to the law of God as they interpret it. Only a small number of such groups advocate the use of violence to promote their goals; the vast majority limit themselves to rhetoric that nonetheless creates and encourages an atmosphere of structural rejection of society at large, leading to further radicalization.

These tendencies are seen in groups such as *Hilafet Devleti*, *Hizb al-Tahrir* and *Murabitun* and are observable in several European countries including the UK, the Netherlands, Germany, Denmark and Austria, as well as in radical individuals who preach hatred toward non-Muslims.[67] The chairman of *Hilafet Devleti* (which was banned in 2002) openly refused to recognize the authority of German penal courts when he was charged with (and later convicted of and sentenced for) the murder of a rival "caliph." Organizations such as *Tablighi Jamaat* are also exclusivist; even though they claim to reject violence, their ideology is based on the anti-colonial approach of the Deoband school of Muslim thought in India, which adheres to a pronounced anti-Western and anti-Christian ideology. In 2006, the *Tablighi Jamaat* disrupted the Palm Sunday procession held in the Franconian village of Pappenheim in the Bavarian countryside. Such groups are often led or supported by itinerant preachers, and try to influence recent Muslim immigrants suffering from unstable social and economic conditions, or newly arrived students suffering to a certain degree from "culture shock".

One of the few voices publicly demanding the introduction of Islamic law and Muslim arbitration in Germany is the extremist founder of an Islamic center in Berlin. In a book published in Saudi Arabia titled "The Rules of Personal Status of Muslims in the West,"[68] Sālim Ibn ʿAbd al-Ghanī al-Rāfiʿī repeatedly declares that non-Muslims are infidels and rejects the German legal order as "rules of infidelity."[69] Consequently, he urges

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[64] Cf. Ulrich von Wilamowitz-Moellendorff, Türken in Deutschland – Einstellungen zu Staat und Gesellschaft, Konrad-Adenauer Stiftung (ed.), Arbeitspapier Nr. 53/2001, pp. 7.

[65] Cf. Bundesministerium des Innern, Muslime in Deutschland, Hamburg 2007 (Brettfeld/Wetzels), pp. 492.

[66] Necla Kelek, „Freiheit, die ich meine", *Frankfurter Allgemeine Zeitung* 15.12.2007, pp. Z 1, Z 2.

[67] For details cf. e.g. Rohe, Islamismus und Schariʾa, in: Bundesamt für Migration und Flüchtlinge (ed.), Integration und Islam, Nürnberg 2006, pp. 120, 131 ss.

[68] Sālim Ibn ʿAbd al-Ghanī al-Rāfiʿī, *ahkām al-ahwāl al-šakhsīya li-l-muslimīn fī l-gharb*, Riyadh 2001. Cf. Rohe, Islamisten und Schariʾa, in: Berlin, Senatsverwaltung für Inneres, Islamismus, Berlin 2005, pp. 98, 109 s.

[69] Op. cit., n. 68, p. 618.

Muslims in Germany to maintain and recognize only the rules of traditional Islamic family law. He even argues that the traditional punishment for adultery – flogging or stoning to death – should be applied to Muslim women in Germany who are married to non-Muslims, even if they are unaware of the "applicability" of these rules in their cases.[70] Al-Rāfiʿī denounces the German social security system as evil because it grants wives a degree of independence and thus enables them to "disobey" their husbands.[71] The book typifies extremist literature that proliferates in many Western countries and is funded by organizations in Saudi Arabia[72]. The literature is extremely reactionary at best and often extremist in its attitudes toward non-Muslims and Western societies in general. Those who subscribe to such concepts seek to live in far-reaching segregation from the "non-believers" around them.

III.4. Traditionalist approaches

Those following traditionalist approaches usually reject the extremist ideology mentioned above insofar as it advocates the use of violence or attempts to gain political power. On the other hand, there are remarkable similarities between Muslim traditionalists and extremists with respect to social norms concerning gender issues. While traditionalists do not appear to represent the majority of Muslims in Europe, they are often the best organized groups, particularly in mosques.

Traditionalists are generally inclined to cooperate with non-Muslims on many issues and are ready to integrate into the given secular civil order, guided by the concept of preserving religious identity in a structurally "alien" environment. However, they maintain very traditional positions on gender-related issues and in matters of orthopraxy. In general, they refer to and accept traditional medieval Islamic sources at face value without considering modern approaches that re-interpret

such sources and place them in a proper historical context, which is also part of Islamic tradition.

European adherents of the traditionalist approach defend the concept of "preferable Muslim life in Muslim societies" but adapt their religious practices in response to the conditions of their surroundings, justified by the principle of necessity (*darūra*). Thus they perceive themselves to be living in a permanent state of religious emergency. This approach is based on the medieval Islamic concept of two worlds – *dār al-Islām* (house of Islam) and *dār al-harb (*house of war) – in confrontation. However, a zone in the latter realm, connected to the Islamic world by (temporary) peace treaties (*dār al-ʿahd*[73]), enables Muslims to live in security, and therefore obliges them to respect the law of the land. Nevertheless, from the Middle Ages onwards, Muslim lawyers have advised against long stays abroad (outside the *dār al-Islām*), fearing that this could prevent Muslims from fulfilling their religious duties.[74] This fear was likely due to Muslim experiences during the Inquisition ("*Reconquista*"),[75] the Crusades, and other hostile encounters between Christian European and Islamic powers. It is not by accident that a concept of two opposing realms was elaborated during those times. Similar points of view can still be found today among very traditional Muslim legal scholars, some of whom harbor extremely anti-Western views.[76] The central point always seems to be the fear that the Muslim world could be weakened by migration of Muslims to non-Muslim countries. However, this fear does not seem to correspond with the present reality of survey findings showing that one-third of all Muslims live outside Muslim-majority countries, many of them by their own choice.[77]

Thus, the concept of *dār al-ʿahd* may serve as the basis for peaceful co-existence in the Muslim diaspora, as it obliges Muslims to respect the law of the land in return for being granted personal

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[70] Op. cit., n. 68, p. 394. Cf. also the results of an essay competition among Muslims in Britain on issues concerning penal law (Abdullah Mohammed in: The Federation of Students Islamic Societies, Essays on Islam, Essay Competition, Winning Entries 1995, Leicester 1995, 14, 37): The winner quotes a Muslim author who argues that Europeans are afraid of the application of Islamic penal norms (which prescribe harsh corporal punishments that contradict human rights) because they have an inherently criminal nature and wish to commit unjustifiable crimes.

[71] Op. cit., n. 68, p. 79.

[72] Cf. e.g. Rohe (n. 43), pp. 331-332.

[73] Cf. article "*dār al-ʿahd*", in: *Wizārat al-awqāf wa al-šuʾūn al-islāmīya* (ed.), *Al-mawsūʿat al-fiqhīya* Vol. 20, 2nd ed. Kuwait 1990; Khālid ʿAbd al-Qādir, *Fiqh al-aqallīyāt al-muslima*, Tarābulus 1419/1998, pp. 59 as well as the references in Encyclopedia of Islam II, Leiden 1991 under *dār al-sulh* (Macdonald).

[74] Cf. Ibn Rušd, *Al-muqaddimat al-mumahhida*, Cairo 1325/1907 Vol. 2, p. 286; even stricter statements in al-Qayrawānī, *Kitāb al-ğihād min kitāb al-nawādir wa l-ziyāda* (Ed. v. Bredow), Stuttgart 1994, at p. 486; Khoury, Islamische Minderheiten in der Diaspora, Mainz 1985, pp. 128; cf. also Miller, Muslim Minorities and the Obligation to Emigrate to Islamic Territory, Islamic Law and Society 7/2000, pp. 258.

[75] Cf. only Dressendörfer, Islam unter der Inquisition. Die Morisco-Prozesse in Toledo 1575-1610, Wiesbaden 1971.

[76] See Ibn Baz/Uthaymeen, Muslim Minorities – Fatawa Regarding Muslims Living as Minorities, Hounslow 1998, especially pp. 71; The Fiqh Council of the Muslim World League on its 16th session in Mecca, reported in "A message from Muslim scholars to Muslim Minorities in the West", *Daawah* No. 4 1422 A.H./Feb. 2002, pp. 8, 11.

[77] M. Ali Kettani, Muslim Minorities in the World Today, London 1986, p. 18; also see Abedin, Muslim Minority Communities in the World Today, *Islamochristiana* 16 (1990), pp. 1.

security and protection by the states in which they reside. However, it is doubtful whether Muslims who see themselves as living in "diaspora" communities would be inclined to feel a part of and contribute to the larger societies in which they live. Nevertheless, some Muslim scholars, particularly in France, are developing a so-called *fiqh al-aqal-liyāt*, a system of rules for Muslim minorities based on traditional concepts. According to this system, Muslims are entitled to live in European countries, are obliged to accept the law of the land, and may find viable solutions for practicing their faith as a minority. But within this system, Muslims structurally define themselves as remaining "foreigners" in European societies, with some going so far as to try to maintain or to promote the application of Islamic legal norms to the broadest extent possible.

In sum, traditionalist views enable Muslims to justify peaceful co-existence with the broader non-Muslim society while at the same time maintaining their distance from that society as a whole. This approach will certainly create problems in situations that require more than a merely passive or theoretical acceptance of the law of the land, e.g. in cases of obtaining citizenship or functions as civil servants. In these cases, it is necessary to actively support the ethos and follow the legal and social norms of secular democratic states. Furthermore, it would be problematic to educate future generations to maintain structural distance based on the conviction that while the law of the land has to be accepted as a matter of temporal fact, it should be replaced by a non-secular order sometime in the future.

III.5. Religious positions of civic entrenchment

The fifth approach is based on the idea of substantial integration into European societies, with Muslim minority communities fully accepting and contributing to prevailing social norms while preserving their religious identity within the framework of freedom of religion. Examples of public discourse by Muslims in recent European forums express aspects of the thinking behind this approach. At a 2007 conference held in Sarajevo, the Bosnian Muslim lawyer Enes Karić, who teaches at the Islamic Faculty there, explicitly stated that the caliphate is not an integral part of the religion of Islam.[78] He considers Sharia to be a set of rules with moral goals and secular

states to be products of their actions. Therefore, in his view, "A state which is willing to provide a sufficient social structure, e.g. funds for students or pensions, which intends to establish economic and social justice, which respects and promotes human rights, is an Islamic state in this sense." (He also cited the proverb *" 'adl al-dawlati īmānuhā, zulm al-dawlati kufruhā"* – justice is the belief of a state, injustice is its unbelief, and said that the concept of citizenship is a major European achievement.) Finally, he noted that the European secular democratic state under the rule of law fulfils the conditions for justice, and concluded: "Therefore, we don't need a double system."[79]

At the same conference, Mustafa Klanco, the Bosnian chief imam of Germany, said that the sooner Muslims in Europe are ready to leave diaspora thinking behind them, the more quickly they will achieve the necessary level of integration. He also cited the hiring of untrained imams from abroad on short term contracts as hindering the integration of Muslim communities into German society. On a more theoretical level, a Muslim participant[80] in a public discussion on the secular state's need for religion in Vienna in 2007 stated that Muslims must adopt the state's public order by accepting the law and concepts of tolerance and assuming social responsibility and solidarity – all by internalizing, or "theologizing" these indispensable values.[81] This approach "values" the principles of the democratic secular state that grants human rights from a religious point of view, instead of basing the state system on religious norms.

The French imam Tareq Oubrou has stated that a concept of Sharia should be developed that replaces its legal mechanisms with those of secular French law.[82] Concerning *fatāwā* (scholarly opinions) issued by Muslim religious leaders in Europe, Oubrou demands that clerics must first understand the prevailing legal frameworks and how they are interpreted, and then ensure that the application of *fatāwā* is consistent with that framework.[83]

Such sentiments, which have the potential to enable European Muslims to actively participate in society, appear to have emerged in recent years; however, they are not without precedent in the Muslim world. Aside from Turkey, which was established as a secular state with a Muslim majority, there is also the example of Bosnia,

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[78] Cf. also Karić (n. 84) 201, quoting the author E.N. Bulbulović who dealt with the caliphate issue in the 1920's.
[79] Lecture held during a conference in Sarajevo organized by the German Friedrich Ebert-Stiftung on November 19th 2007.
[80] He is teaching at the Vienna academy for the education of teachers in Islamic instruction.
[81] Report by Prof. Andreas Khol, the former president of the Austrian national Assembly, „In Gottes Namen", *Die Presse* 17.11.2007, p. 37.
[82] Oubrou (n. 88), p. 206.
[83] Ibid., p. 210.

whose Muslim population had to define their future in a secular state with a non-Muslim majority after the Austrian conquest in 1878, during the Yugoslavian kingdom that followed, and after the abolishment of Sharia rules in 1946. They built a path to the reflections mentioned above, although not unanimously. Nevertheless, a relatively large number of Bosnian Muslims preferred to remain in Bosnia after the conquest, accepting the attendant advantages, and giving them priority over the loss of "religious power."[84] The Bosnian Muslim lawyer Karić has observed: "The impression is gained that many texts were then written that saw in the abolition of the caliphate an opportunity for the 'reform' of that institution too,"[85] to the point where the institution of the caliphate could be transformed into a purely religious body which could eventually be replaced by others. Bosnian author N.E. Bulbulović wrote about the caliphate in 1926, saying

> "Among the common people there is an ingrained supposition that the Qur'ān is the source of all knowledge. It therefore follows that they reduce all issues to agreement with the precepts of the faith and seek divine sanction for every tiny detail. We cite an antithesis to this synthesis, that religion is exclusively the relationship between God and man, and nothing else. (…) Many obstacles of a religious character have been strewn so far on that path (i.e. the path of advancement and civilization) and should be removed. Among them is the Caliphate, which mixed politics with religion, or religion with politics, stifling the life and the advancement of the Muslims. The destruction of such a Caliphate and the banishment of its protagonists is not a sin, but a great and praiseworthy deed."[86]

Today an increasing number of Muslim thinkers are seeking new approaches to defining Islamic life in Europe in ways that are compatible with the systems of secular legal and social norms. These thinkers reject the stark dichotomy of old between *dār al-Islām* and *dār al-harb*, saying that nowadays, earth is simply "one house" for humankind as a whole, and that every Muslim is entitled to live anywhere in the world, but is nevertheless responsible for the society in which he or she lives. They stress that there is no support either in the Qur'ān or in the sunna for the antiquated binary *dār al-Islām* vs. *dār al-harb*, and that it is no more than an invention of medieval lawyers. They maintain that intense international co-operation and common legal norms have largely eliminated the conditions that produced periods of prolonged hostility between Europe and the Muslim world in the past. According to these thinkers, the world nowadays constitutes one single camp (*dār wāhida*), one all-embracing *dār al-'ahd*.[87]

At the same time, in his "Introduction théorétique à la charî'a de minorité,"[88] the French Imam Tareq Oubrou proposes the elimination of mere cultural "foreign influences" associated with Islam that hinder social integration of Muslims in France.[89] His approach is strongly supported by Muslim women's organizations and by intellectuals who advocate a reformed Islamic understanding of gender equality, denounce widespread phenomena of oppression and assaults against Muslim girls and women,[90] and cautiously distinguish religious commands from the cultural phenomena that sometimes influence daily life to a far greater degree.[91] This new approach opens a broad space for the harmonization of the European legal framework with Islamic life in Europe – a harmonization that may be achieved through the search for common ground in the ethos and intentions of secular and religious norms.

This is also true for the field of law, according to Karić's ideas as mentioned above. For instance, the Canadian Muslim activist and lawyer Faisal Kutty[92] has characterized Canadian inheritance laws, which are gender-neutral, as „Islamic".

[84] For details cf. Enes Karić, 20th Century Islamic Thought in Bosnia and Hercegovina, to appear in 2009, pp. 141, particularly pp. 200-206.

[85] Cf. Karić (n. 84) p. 200.

[86] Quotes from his work „The Pan-Islamic congress and the Caliphate issue [Sveislamski congres I pitanje hilafeta], pp. 5-6, according to Karić (n. 84), p. 201 s.

[87] On the ISESCO-conference in Frankfurt am Main/Germany on September 29th and 30th 2003 on "Dialogue among Civilizations: Diversity within complementarity" the Muslim participants from all over the Islamic world and Europe unanimously agreed on this concept.

[88] Oubrou, *Islam de France* 2 (1998), pp. 27.

[89] Ibid., p. 28.

[90] Cf. Zaki Badawi, Muslim Justice in a Secular State, in: King (ed.), God's Law versus State Law, London 1995, pp. 73, 75 s. and 79; Sarah Sheriff, Forced marriage, *Muslim news* 29. August 2003 (no. 172), p. 11; Huda May/June 2001, pp. 28; Muhammad Abdul-Rauf, Women and the Family, 3rd ed. Alexandria, VA et al. 1995, pp. 120; Tahir Mahmood, Uniform Civil Code, Fictions and Facts, Delhi 1995, 76; AG Korbach FPR 2003, p. 335.

[91] Cf. Karmi, Women, Islam and Patriarchalism, in: Yamani (ed.), Feminism and Islam, New York 1996, pp. 69 ss.; Engineer, The Rights of Women in Islam, 2nd ed. New York 1996, p. 11; Barlas, „Believing Women" in Islam. Unreading Patriarchal Interpretations of the Qur'an, Austin 2002; H. al-Mughni, Women in Kuwait. The Politics of Gender, London 2001, p. 184; Osman, The Children of Adam. An Islamic Perspective on Pluralism, Washington D.C. 1996, p. 20.

[92] In an interview given to the author in Toronto in 2006.

Obviously this view contradicts the Qur'ān, which in sūrah 4:11 indicates that female heirs are to receive half the share of their male counterparts. But according to Islamic tradition, this gender-based distinction is explained by the fact that classical Islamic law obliges only males to provide for their family's financial support – thus the doubling of their inheritance shares are seen as compensation for the unilateral imposition of financial responsibility. However, in Canada and other Western states (as well as in a few Muslim-majority countries), laws of maintenance are gender-neutral, and their provisions apply to all residents. Therefore the reason given for the Qur'ānic distinction is not valid in such contexts. In conclusion, Kutty affirms that Canadian legal norms are just also from an Islamic point of view. In fact, until now, attempts to search for such common ground in legal rules have been few, but they nonetheless have considerably contributed to the discourse on the compatibility of Islamic and Western legal and social norms. In my experience, many Muslims do not share the restrictive traditionalist view and would support a more integrative approach that defines Europe as the "home" of European Muslims. The integrative ethos is also reflected in the thinking of Soheib Bencheihk, a prominent French Muslim who served as an imam in Marseille and enjoys a favourable reputation among liberal Muslims in France and Europe as a whole (while having been criticized by others).[93] Such thinking will allow European Muslims to maintain their identities as members of a minority religion while at the same time actively participating in and contributing to the larger societies of which they are a part.

IV. Conclusion

Two or three decades ago, the issue I have discussed here would have been laughed off as fiction. In most European societies, with the exception of some regions of the Balkans, the Muslim presence was minor. In France and the UK, relations between the non-Muslim majority and minority Muslim communities echoed those of colonial times: strained and largely separate. Hardly anybody cared about a "Muslim identity in Europe." After it became apparent that a significant and permanent Muslim presence was taking root in Europe, the question of such a Muslim identity

arose among many Muslims there. Some of them appear to formulate a defense for Muslim existence in Europe against demands of extremist or traditionalist Muslims from Islamic countries to refrain from living there. Others advocate increased Muslim engagement in existing political parties, NGOs, and other social and political initiatives, and they reject the idea of creating exclusively Muslim organizations. Moreover, they consider the formulation of a theological framework for Muslims in Europe to be of little use[94] or even harmful, as they believe it would subordinate the norms of the secular democratic state to religious ideology.[95] Some Muslims in Europe focus on finding solutions to the practical problems of daily life, while others try to create a theoretical, theologically well-funded framework for Muslim life and identity within non-Muslim societies.

Until recently, such initiatives have been rare, but they are increasing in number and scope. This might be due to the fact that Muslim communities are now a permanent feature across the European landscape, and the well-educated Muslims among them are taking up these issues – including how to define Sharia rules for Muslims in Europe in accordance with the indispensable values of democracy, human rights, and the rule of law that govern European legal orders. Within the framework of these orders, Muslims must be guaranteed not only theoretical religious freedom but also the actual freedom to practice their faith in daily life. All Europeans, Muslims and non-Muslims alike, should remember that freedom of religion and religious pluralism are integral aspects of liberal European constitutions, and that all who respect the law of the land should enjoy this freedom. Opponents of liberal constitutional orders are to be found among Muslim extremist groups and individuals, as well as among right-wing and left-wing radicals, radical feminists, Christian fundamentalists, and simple racists (who are sometimes to be found as partners in unexpected alliances[96]).

Nevertheless, there is sound reason for optimism, given the fact that in European and other Western societies, there are stable majorities of Muslims and non-Muslims who are interested in peaceful co-existence and who accept the idea that both unity and diversity can thrive in a shared framework of common norms, rights, and responsibilities.

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[93] Cf. Soheib Bencheikh, Marianne et le Prophète, Paris 1998, pp. 188 in particular.
[94] Statement of Dr. Hasni Abidi, Director of the Centre for Studies and Research in the Arab World and the Mediterranean, Geneva, at the ISESCO-conference in Frankfurt on September 29th and 30th 2003.
[95] In this sense Ghaleb Bencheikh at a conference in Berlin on 09.02.2007 by the Konrad-Adenauer-Stiftung, the Heinrich-Böll-Stiftung und der Bundeszentrale für Politische Bildung on the issue of „Muslime als Staatsbürger" (Muslims as citizens).
[96] Cf. Rohe, Alice Schwarzers Kanal – Desinformation für Fortgeschrittene, available at http://www.zr2.jura.uni-erlangen.de/aktuelles/kanal.shtml.

Dr. Hansjörg Schmid

Representation or Participation?
How German Muslims Seek to be Recognized

I. Introduction

To be formally recognized not only as individuals but also as a religious community is one of the main targets of German Muslims which has not yet been realized. All attempts to achieve a legal status equal to the Christian churches have failed so far. Though, a shift in the debates can be observed: whereas in the 1990s the issue of juridical recognition in the full sense – as a corporation of public law which comprises the right to raise taxes and to provide pastoral care in public institutions, etc.[1] – was at the centre of interest, it has now become clear that this type of recognition can only be a long-term goal and that small steps towards this goal also make sense. It is often pointed out in this context that for many rights and activities including religious education at state schools the status of a corporation of public law is not a necessity.

Unequal recognition is often quoted as a proof for discrimination and rejection.[2] "Refused recognition" is a widespread topic of Muslim discourse finally resulting in a kind of resignation.[3] Correspondingly, the British Muslim activist and social scientist Dilwar Hussain has observed that in order to achieve recognition Muslims in Europe tend to make much more efforts for representation than for participation.[4] The issue he has raised will serve as a kind of guideline through this essay. When studying Muslim struggles for recognition, my perspective is that of a coordinator of Christian-Muslim dialogue and social ethicist with a Roman Catholic background, who is interested in social processes and looks at Islam from a comparative perspective of mutual learning and searching for ways of concerted commitment.

In the first chapter some philosophical aspects of recognition will be considered which are then to be applied to concrete examples. This is followed by a chapter in which the question "Representation or Participation?" will be raised in relation to various fields of Islam in Germany. The conclusion will depict several perspectives and make a comparative remark on the situation of the churches.

II. Ways of Recognition

As a "vital human need"[5] recognition is a central concept in modern societies, in which identity is no longer automatically delineated by society and the individual's social position, but formed through interaction with others.[6] This makes evident that denied recognition (or mis-recognition[7]) has severe consequences. Concerning recognition several types, levels and dimensions can be distinguished:

(1) The first distinction is between *individual and collective recognition*.[8] In the case of Islam one often finds a mixture: Individuals want to be recognized for their Muslim identity, but also wish Islam to be recognized by the state. The following reflections will be concentrated on collective struggles for recognition in the public sphere. The collective entities involved in these struggles are not fixed and homogeneous, however, as complex belongings of individuals to a variety of entities exist. Moreover, collective identities always result from quarrels among conflicting interpretations about self-definition.[9] Therefore, understandably, it is a

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1   Cf. Gerdien Jonker, Muslim Emancipation? Germany's Struggle over Religious Pluralism, in: Wasif A. R. Shadid/Pieter Sjoerd van Koningsveld (eds.), Religious Freedom and the Neutrality of the State: The Position of Islam in the European Union, Leuven 2002, 36-51, 39s. On the requirements cf. Christian W. Troll, Christian-Muslim Relations in Germany. A Critical Survey, in: *Islamochristiana* 29 (2003), 165-202, here 181s.

2   Cf. Nico Landmann, Westeuropa, in: Werner Ende/Udo Steinbach (eds.), Islam in der Gegenwart, München ⁵2005, 560-597, 596: "Neben diesen konkreten Vorteilen hat die öffentlich-rechtliche Anerkennung auch einen symbolischen statuserhöhenden Wert – und das Nichtvorhandensein dieser Anerkennung unterstreicht für viele Muslime, dass sie als Glaubensgemeinschaft nur einen zweitrangigen Wert haben."

3   Cf. Hans-Joachim Roth, Religiöse Orientierung von Jugendlichen und ihre Bedeutung für den Umgang mit islamischem Religionsunterricht: Die Fragen des islamischen Religionsunterrichts – Zur Einführung in die Diskussion, Wolf-Dietrich Bukow/Erol Yildiz (eds.), Islam und Bildung, Opladen 2003, 135-156, 145.

4   Cf. Dilwar Hussain, The Holy Grail of Muslims in Western Europe: Representation and Relationship with the State, in: John Esposito/François Burgat (eds.), Modernizing Islam: Religion in the Public Sphere in Europe and the Middle East, London 2003, 215-250, here 245. I shall quote this version, but also refer to a slightly longer unpublished version of this article which the author kindly made available to me.

5   Charles Taylor, Multiculturalism and "The Politics of Recognition," ed. by Amy Gutmann, Princeton 1992, 26.

6   Cf. ibid., 31 and 36.

7   Ibid., 64.

8   Cf. Barbara Kaletta, Anerkennung oder Abwertung. Über die Verarbeitung sozialer Desintegration, Wiesbaden 2008, 130.

9   Cf. Seyla Benhabib, Kulturelle Vielfalt und demokratische Gleichheit. Politische Partizipation im Zeitalter der Globalisierung, Frankfurt 1999, 56.

highly disputed matter which Islam, represented by whom should be recognized.

(2) The second distinction is between *juridical and social recognition*. Likewise Axel Honneth differentiates between juridical recognition and social esteem.[10] As to Islam in Germany these two dimensions cannot always be strictly separated.[11] Whereas juridical recognition is very concrete and defined by laws, social recognition is more flexible and difficult to measure finding its expression in respect, reputation and esteem. Concerning the recognition of religious communities, the state formulates certain terms and conditions which need to be fulfilled. Probably this concreteness is one of the reasons why juridical recognition is in the core of the Islam debate in Germany. As to the relationship of both, social recognition may be a source of conflict, which can be regulated by a juridical framework guaranteeing recognition in certain fields. Whether juridical recognition has been accorded or not, can be gauged straightforwardly. Determining whether social recognition has been granted is a more difficult case, so that it is worthwhile looking at this field in the following study.

(3) *Recognition is a relationship*: There is one who receives recognition and one who grants recognition. In the case of human rights a relationship of mutually equal recognition exists. Other issues may be more one-sided. Thus, it must be pointed out that to seek for recognition does not come with a guarantee to receive recognition. Social recognition may be the result of public debates; then a (fairly diffuse) public opinion – and not the state – is source of a kind of collective recognition.[12] There is a certain imbalance when a majority has the power to grant recognition or to refuse it. The initial position in the struggle for social recognition is marked by inequality, as for immigrants with poorer education access to the public sphere is on aver-

age more difficult. Even if complete equality concerning recognition is impossible, there should be at least equality regarding chances, and religious belief should not be hampering recognition.[13] Yet recognition always has to do with difference. Instead of exerting a "difference-blind" politics of assimilation, Charles Taylor therefore proposes a "politics of difference" which recognizes "the unique identity of this individual or group, their distinctness from everyone else."[14] It is difficult to decide, however, if a certain degree of recognition can be considered as adequate or not.[15]

(4) There are *different strategies to seek for recognition* as part of the communication process leading to recognition, which is not something existing *a priori*, but has to be won "through exchange."[16] Representation and participation may be seen as two such strategies. Both are complex terms. *Representation*, first of all, means drafting a picture of something, i.e. in this context delineating a certain role and concept of Islam. Then, representation signifies representing others, e.g. as elected bodies or speakers. Representation relies on acceptance of what is articulated in debates so that there is certain closeness to participation. In many cases there are disputes about which body may legitimately represent whom.[17] *Participation* means being or becoming a part of something which, by nature, is always a broader context or issue. It also indicates a second mode of exertion of democratic governance: participation through direct plebiscites, elections or citizens' groups.[18]

Dilwar Hussain defines the two concepts as slightly oppositional: Participation means contributing and collaborating for the benefit of all, which is a central element of democracies. Representation, in contrast, signifies that individuals or groups act according to their status and in favour of their own interests in a certain social role or political function.

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[10] Cf. Axel Honneth, Kampf um Anerkennung. Zur moralischen Grammatik sozialer Konflikte, Frankfurt 1994, 197. Cf. also Arto Laitinen, Zum Bedeutungsspektrum des Begriffs Anerkennung: Die Rolle von adäquater Würdigung und Gegenseitigkeit, in: Hans Christoph Schmid am Busch/Christopher F. Zurn (eds.), Anerkennung (Deutsche Zeitschrift für Philosophie, Sonderband 21), Berlin 2009, 301-324; cultural recognition could be discussed as a third field.

[11] On legal recognition cf. Mathias Rohe, Der Islam – Alltagskonflikte und Lösungen. Rechtliche Perspektiven, Freiburg 2001, 199-214.

[12] Cf. Kaletta, Anerkennung (note 8), 79.

[13] Cf. Michael Walzer, Spheres of Justice. A Defense of Pluralism and Equality, New York 1983, 255s.: "No simple equality of recognition is possible; the idea is a bad joke. [...] But if in the struggle for recognition there cannot be equality of outcomes, there can be [...] equality of opportunity."

[14] Taylor, Multiculturalism (note 5), 38; cf. also 43 and 72: "There must be something midway between the inauthentic and homogenizing demand for recognition of equal worth, on the one hand, and the self immurement within ethnocentric standards, on the other."

[15] Cf. Laitinen, Adäquate Würdigung (note 10), 317.

[16] Taylor, Multiculturalism (note 5), 24. Cf. Hans-Joachim Höhn, Kampf um Anerkennung. Muslime, Christen und der säkulare Rechtsstaat, in: Karl Gabriel/id. (eds.), Religion heute öffentlich und politisch. Provokationen, Kontroversen, Perspektiven, Paderborn 2008, 140-148, here 145: "Anerkennung aber muss erworben werden [...]."

[17] Cf. Werner Schiffauer, Muslimische Organisationen und ihr Anspruch auf Repräsentativität: Dogmatisch bedingte Konkurrenz und Streit um Institutionalisierung, in: Alexandre Escudier (ed.), Der Islam in Europa. Der Umgang mit dem Islam in Frankreich und Deutschland, Göttingen 2003, 143-158, here 145s.

[18] Cf. Joachim Detjen, Politische Bildung. Geschichte und Gegenwart in Deutschland, München 2007, 302.

Organisations which represent Muslims and their interests can be regarded as an example of representation.[19] The two concepts can be illustrated by referring to the example of mosques in Germany: New, visible mosques may be a step towards participation of Muslim communities, if they regularly open their doors, cooperate with town councils, churches and other institutions. Two prominent examples are the mosques in Mannheim and Duisburg which both encompass a centre for encounter and dialogue.[20] On the other hand, a well-known argument against building mosques is that they are exaggerated means of representation. When no efforts are made to participate, new mosques nourished suspicion that they are primarily means of representation.

With respect to obtaining recognition, Hussain draws a comparison with the "Holy Grail." In his overview he arrives at the conclusion that the Muslims' strive for recognition has been in vain and disappointing. He proposes participation as an alternative, which means not only struggling for the own group but: "making the whole society their concern rather than just their parochial interests."[21] He regards Muslims' efforts for representation as very critical:

> "Muslims have largely attempted to work with the state, overlooking their opportunity to also work within the state."[22]

An important factor for this is that in many countries, from which Muslim immigrants to Europe originate, no full-fledged civil societies exist. Considering the two most important countries of origin with respect to German Muslims it can be noticed that these two countries clearly tend toward representation and formal recognition: In Turkey official Islam is even organized by the state and only recently Muslim groups outside this monopolizing Presidency of Religious Affairs (Diyanet) have gained a certain amount of freedom. Since the Austrian occupation in 1878, in Bosnia and Herzegovina a church-like institutionalized Islam exists, which now is faced with the challenge that various Muslim movements have arisen outside the official Islamic community and that the latter

has to find its place in the emerging civil society. Even though this does not mandatorily impinge on the development of Islam in Germany, it is evident that these traditions will influence it strongly. But as Hussain's essay has been published seven years ago, it must also be asked if there has been some progress with regard to recognition.

III. Looking at Various Fields of Constructing Islam

Constructing Islam in Germany is a particularly exciting issue. To build up new organisations and to find their place within society was a new issue for Muslim immigrants. Though mass immigration started in the early 1960s, until the beginning of the new millennium and until it was politically accepted on a broad scale and legally implemented by a new citizenship law, it looked as if Germany was a country of immigration and Islam would remain a permanent phenomenon in the country. Based on this insight, many milestones have been reached in the past few years in building up a contextual German Islam.

What shall be discussed here is not the individual level[23], but the collective construction of Islam. As there is no church in Islam which could speak in the name of all Muslims, the field of articulating Islam is variegated.[24] When introducing Islam in Germany people look primarily at Muslim associations as a registered legal form. Even in the context of this essay this can be an aspect to start with, but there are many other fields in which Islam is constructed.[25] All these fields result from interaction of Islam with social sub-systems such as public welfare, education, science, other religions and the media. For the present study fields have been selected in which certain achievements have been reached and independent identities of Islam can be observed.

It is not claimed that these fields are exhaustive. Muslim youth and women organisations are further fields which, however, have been omitted here due to restricted space. In each of the fields it would be necessary to intensify the analysis. The intention is to formulate first hypotheses, depict tendencies and observations which have to be confirmed by

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[19] Cf. in favour of this mode according to the French model Dalil Boubakeur, Der interreligiöse Dialog als Faktor des sozialen Zusammenhalts und als Instrument des Friedens im Mittelmeerraum, in: Peter Graf (ed.), Der Islam im Westen, der Westen im Islam, Göttingen 2004, 201-209, here 202.

[20] Cf. www.institut-mannheim.de and www.ditib-du.de.

[21] Hussain, Holy Grail (note 4), 247. On participation cf. Wasif A. R. Shadid/Pieter Sjoerd van Koningsveld (eds.), Political Participation and Identities of Muslims in Non-Muslim States, Kampen 1996.

[22] Hussain, Holy Grail (note 4), 247.

[23] Cf. e.g. Sigrid Nökel, Die Töchter der Gastarbeiter und der Islam. Zur Soziologie alltagsweltlicher Anerkennungspolitiken. Eine Fallstudie, Bielefeld 2002; Halit Öztürk, Wege zur Integration. Lebenswelten muslimischer Jugendlicher in Deutschland, Bielefeld 2007.

[24] As an illustration of this, cf. the variety of topics discussed in: Ala Al-Hamarneh/Jörn Thielmann (eds.), Islam and Muslims in Germany, Leiden 2008.

[25] Cf. e.g. Peter L. Berger/Thomas Luckmann, The Social Construction of Reality, New York 1966.

further research. One side of the relation will be focused on the strategies of recognition. Responses of the majority to these strategies are adumbrated, but not explored in detail.

III.1. Muslim Associations, Building up Umbrella Organisations and the "Deutsche Islam Konferenz"

The formation of Muslim associations in Germany has been primarily a bottom-up process, which has resulted in the formation of umbrella organisations on the national level embracing local associations with a certain profile all over the country.[26] The first attempt of creating a preferably single top organisation comprising several of these organisations was the "Islamrat für die Bundesrepublik Deutschland" (IR) in 1987, founded as a "coordinating institution and common decision-making body of Islamic religious communities."[27] Its largest member organisation is the "Islamische Gemeinschaft Milli Görüş" (IGMG) which was inspired by Necmettin Erbakan in the beginning and currently comprises both an Islamist and a reformist-oriented wing. To obtain the status of a corporation of public law is mentioned as a main goal in the self-portrayal of the IR:

> "The Islamrat seeks for the recognition of Islam in Germany as a Corporation of Public Law and for its equal treatment with the two large Christian churches and the Greek-Orthodox church."[28]

Thus, representation stands at the centre.

The second top organisation is the "Zentralrat der Muslime in Deutschland" (ZMD), founded in 1991. Until 2000, when it left the ZMD, its largest member organisation was the "Verband der Islamischen Kulturzentren" (VIKZ), which is part of the Turkish Süleymanci movement. Its representative name – analogous to the "Zentralrat der Juden in Deutschland" (Central Council of Jews in Germany) – helped the ZMD to be heard in public as one of the most important Muslim voices. Like the IR, the ZMD claims to be a contact organisation and central representative body of German Muslims:

> "Our most important task is to promote Muslim life and spirituality in Germany and to enable the Muslims to practice their religion without difficulties."[29]

Thus, in contrast to the IR, the self-portrayal of the ZMD which explicitly wants to support smaller associations is focused on issues regarding prayer, slaughter, religious education and pastoral care. A central document in German Islam is the "Islamic Charta," published in February 2002 by the ZMD.[30] Starting by explaining Muslim belief and practice, it continues with various issues of Muslims living in Germany. It is interesting that formal recognition is not mentioned in the document. The text is more about recognizing the religious practice of Muslims (§ 20). This indicates that formal representation corresponds to the institutionalized churches, whereas recognition for the orthopractical religion Islam might well look different.

There is one section in the Charta outlining participation without using the word itself:

> "The Central Council (ZMD) feels responsible for society in its entirety. Together with other social groups it therefore endeavours to make a significant contribution towards more tolerance, better ethical behaviour, as well as an effective protection of the environment and of animals. The Central Council (ZMD) deplores the violation of human rights wherever and whenever this occurs. Thus it is a partner in the fight against religious discrimination, xenophobia, racism, sexism, and violence." (§ 18)

Though this paragraph mentions obligations for the whole of society, the last article in the Charta indirectly recommends to vote according to the commitment of the candidates to Islam, not to the general welfare:

> "The Central Council (ZMD) is politically neutral. Muslims entitled to vote will give their ballot to those candidates who support their rights and aims most strongly and show the greatest comprehension of Islam." (§ 20)

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[26] As exhaustive introductions to this topic, cf. Thomas Lemmen, Muslime in Deutschland. Eine Herausforderung für Kirche und Gesellschaft, Baden-Baden 2001; Ina Wunn et. al., Muslimische Gruppierungen in Deutschland. Ein Handbuch, Stuttgart 2007. The issue of Muslim associations on the level of the federal states cannot be addressed here. Cf. e.g. Hansjörg Schmid/Ayşe Almıla Akca/Klaus Barwig, Gesellschaft gemeinsam gestalten. Islamische Vereinigungen als Partner in Baden-Württemberg, Baden-Baden 2008.

[27] "[B]undesweite Koordinierungsinstanz und gemeinsames Beschlußorgan islamischer Religionsgemeinschaften."

[28] "Der Islamrat strebt Anerkennung als Körperschaft des öffentlichen Rechts für den Islam in Deutschland und seine Gleichstellung mit den beiden christlichen Großkirchen und der griechisch-orthodoxen Kirche an." www.islamrat.de/index.php?option=com_content&view=article&id=45&Itemid=54.

[29] "Unsere wichtigste Aufgabe ist es, das muslimische Leben und die islamische Spiritualität in Deutschland zu fördern und den Muslimen die Ausübung ihrer Religion zu ermöglichen und zu erleichtern." www.zentralrat.de/2594.php.

[30] Cf. www.zentralrat.de/3037.php.

This may be seen slightly contradictive to § 18 and its focus on participation, and also as evidence for an intended dominance of Islam. Therefore, the overall picture remains inconsistent; it is a mixture of pro-active participation and representation linked with Islamic interests.

A further step toward organizing Islam in Germany was the creation of the "Koordinationsrat der Muslime" (KRM) in 2006 as a coordinating roof that was founded by the four umbrella organisations ZMD, IR, DITIB ("Türkisch-Islamische Union der Anstalt für Religion" which is a branch of the Turkish Diyanet and constitutes the largest Muslim consortium in Germany) and VIKZ. According to its internal rules of procedure, its objectives are treaties with the state:

> "Together with existing structures on the level of the federal states and on the local level, it works to create the legal and organisational requirements for the recognition of Islam in Germany by state treaties."[31]

The KRM may be seen as a tool for representation, whereas participation happens primarily on the level of its member associations. Polemical demarcations between mosque associations which belong to different umbrella organisations can hardly be found any longer. Nonetheless, the KRM remains weak as it has not been able to develop beyond an organ of informal consultation.

It becomes evident that Muslim associations on a national and federal level are mainly oriented towards the state. As the prerequisites for formal juridical recognition are very high in Germany (individual membership, organisational structure, stability and permanency, theological authority, loyalty to the constitution) – also for a religious community, a status which is beneath that of a corporation of public law – this might either lead to resignation or the Muslims will come to terms with a very tedious process. Concerning the organisations' claim on representation, statistical figures demonstrate how limited this representation is in reality: According to the latest and most exhaustive empirical research, only 20% of the German

Muslims are members of Muslim associations.[32] Muslim associations often claim that a membership covers the entire family and that thus there are far more adherents than formal members. But recent empirical results are disillusioning: Only 15.8% of the German Muslims feel represented by DITIB, 7.2% by the VIKZ. The figures for the umbrella organisations are even lower: ZMD 2.7%; IR 2.2%; KRM 1.9%.[33]

When the "Deutsche Islam Konferenz" (DIK), organized by the Federal Ministry of the Interior, was initiated in 2006, both sides hoped that it would lead to a kind of normalisation and would solve many of the issues in debate. The DIK comprises 15 state representatives and 15 Muslim representatives. The composition of the Muslim members brings about a particular challenge, as these members are representatives of associations, well-known Muslim individuals and critics of Islam. All members were chosen by the state, not elected. The following topics have been treated in the DIK in four plenary sessions and in working groups: values as a basis for society, building of mosques, introduction of Islamic religious education, responsible coverage of Islam in the media and the cooperation between the Muslim population and security agencies. The DIK is intended to be a platform for the dialogue between state representatives and Muslim representatives on a national level.[34] Although not many concrete measures have been implemented as a result of the DIK, it marks a paradigm shift for German Muslims: Concerning representation they have now acquired direct access to state representatives on a high level, and regarding participation they are considered as necessary dialogue partners by the state. This is highly appreciated by many observers from outside:

> "The German Islam Conference can be understood as a contribution to recognize the Muslims as political players. […] However, it tends to support the recognition of legitimate political interests on a national level."[35]

In spite of this, the DIK has not yet delivered a permanent solution to the issue of representation.

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[31] "[Er] wirkt gemeinsam mit den bereits bestehenden muslimischen Länderstrukturen sowie den vorhandenen Lokalstrukturen an der Schaffung rechtlicher und organisatorischer Voraussetzungen für die Anerkennung des Islams in Deutschland im Rahmen von Staatsverträgen" (www.islam.de/files/misc/krm_go.pdf, § 2). It is remarkable that the KRM does not yet have its own website.

[32] Sonja Haug/Stephanie Müssig/Anja Stichs (eds.), Muslimisches Leben in Deutschland. Im Auftrag der Deutschen Islam Konferenz, Nürnberg 2009, 167.

[33] Ibid., 179.

[34] Cf. the documentation: Leila Donner-Üretmek (red.), Drei Jahre Deutsche Islam Konferenz [DIK] 2006-2009, Berlin 2009; and www.deutsche-islam-konferenz.de/cln_117/nn_1318820/SubSites/DIK/DE/DieDIK/Ausblick/ausblick-node.html?__nnn=true.

[35] "Die Deutsche Islamkonferenz kann als ein Beitrag zur Anerkennung der Muslime als politische Akteure verstanden werden. […] Tendenziell unterstützt sie aber die Anerkennung legitimer politischer Interessen auf Bundesebene." Dirk Halm, Der Islam als Diskursfeld. Bilder des Islams in Deutschland, Wiesbaden 2008, 73.

The links between representation and participation on the agenda of the DIK seem promising, but many of the issues discussed remain vague, the scope of action and implementation being limited.

It must be admitted that Muslim associations are central figures in the struggle for recognition. Due to their limited scope and their failure (to a large extent) to obtain recognition, other fields of constructing Islam need to be considered in the following. The story of the Muslim umbrella associations may be seen as a proof that mainly focusing on representation does not suffice to gain recognition in German society.

III.2. Social Commitment of Muslims

Due to the often underprivileged situation of Muslim immigrants, social work and commitment constitutes a central field of Muslim activities. In an overview of social activities of Muslim roof organisations, Thomas Lemmen observes that they mainly or even exclusively address Muslims, and that they often care for their members in all areas of life.[36] This observation requires an adequate interpretation. As a starting point it has to be mentioned that it is very difficult to grasp this field, since little research has been done here so far.[37]

A stress of activities lies in the field of education: The VIKZ runs about 20 hostels for either male or female pupils. Although some of them take this as the basis for being trained as an Imam, what is actually done in these hostels is social work, not education of elites. In addition to an imam, a state accredited social worker directs each hostel. As there are usually no all-day schools in Germany, the hostels prevent young people from spending their spare time on the street or in front of the computer or television.[38] Nevertheless, these hostels are controversially discussed. Whereas in the beginning they were mainly regarded as segregative (as all leisure activities take place "inside" and not in mixed sports or music clubs), in some towns the VIKZ has in the meantime succeeded in dissipating mistrust by opening the doors, cooperating with state schools and demonstrating the integrative function of its institutions. The Fethullah Gülen

Movement also runs schools or institutions for private lessons. Until now, their institutional affiliations and religious motivation have not been very transparent.[39] With decreasing mistrust from outside, the religious motivation has been made more transparent during the last years. The activities of the Gülen Movement primarily addressed youths with a migration background and are very ambitious and professional.[40] In both cases the activities of Muslims have started to be respected, but the public and dialogue partners remain suspicious about a possible hidden agenda.

One of the most remarkable institutions in this field is the "Begegnungs- und Fortbildungszentrum muslimischer Frauen" (Muslim Women's Centre for Encounter and Further Education, BFmF) in Cologne focusing on women and families. It is an initiative of self-help for encounter, education and consulting. In their mission statement they mention equal recognition concerning religion, gender and race as a goal of Muslims. The situation of the Muslims is not only considered in terms of religious recognition but in the wider context of inequality and discrimination. Recognition is reached by participation ("Teilhabe"):

> "Our manifold activities are intended to enable women to participate in society on an equal level while preserving their own identities."[41]

The manifold courses, projects and activities give proof that this is more than lip service. The high reputation of the centre and the awards it has received indicate that it might be easier to attain recognition by means of a broad social approach instead of with a narrow religious approach. Muslim associations do not yet perform social tasks coordinated with the state like the churches which run kindergartens, hospitals and old people's homes, etc. Muslim social commitment is still rising, but the activities of many mosques resemble that of welfare centres. This can be seen as a very pragmatic way towards recognition. Instead of waiting for full juridical recognition it is a way to act.[42] As many projects address the own community and little publicity is gained, they are not particularly

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[36] Cf. Thomas Lemmen, Die Sozialarbeit muslimischer Organisationen in Deutschland, in: Klaus D. Hildemann (ed.), Religion – Kirche – Islam. Eine soziale und diakonische Herausforderung, 191-206, 198f.

[37] Cf. Peter Heine/Aslam Syed (eds.), Muslimische Philanthropie und bürgerschaftliches Engagement/Muslim Philanthropy and Civic Engagement, Berlin 2005.

[38] Cf. also the case studies in Schmid/Akca/Barwig, Gesellschaft (note 26), 86-90, 166-169.

[39] Cf. ibid., 29s., 129-133; Bekim Agai, Zwischen Netzwerk und Diskurs. Das Bildungsnetzwerk um Fethullah Gülen (geb. 1938): Die flexible Umsetzung modernen islamischen Gedankengutes, Schenefeld 2004.

[40] Cf. as an example www.bil-privatschule.de.

[41] "Mit unseren breit gefächerten Angeboten möchten wir Frauen und Familien unter Beibehaltung ihrer eigenen Identität zur gleichberechtigten Teilhabe in der Gesellschaft befähigen."
www.bfmf-koeln.de/German/index.php?page=articles&op=readArticle&title=Leitbild.

[42] This corresponds to the recommendations of Thomas Lemmen/Melanie Miehl, Islamisches Alltagsleben in Deutschland, Berlin 2001, 62.

visible. There is a broad spectrum of activities so that it is hardly impossible to detect a common tendency. The internal orientation of many of these projects has many reasons: These associations have difficulties communicating with actors of the majority society, making the initiation of cooperation a tough task.[43] Moreover, these are the activities of an underprivileged minority,[44] which – unlike the powerful and well established churches – is not capable of becoming active for the society as a whole.

To sum up, an impressive scope of activities can be witnessed. Still, there is the danger of pursuing a parallel commitment which could not be described as real participation. What can be found in this field is often neither representation nor participation, but a kind of self-help. This paints a critical picture of society as a whole, as the task to build up partnership in this field seems to be often neglected.

III.3. Islamic Religious Education in State Schools

Islamic religious education (IRE) is generally considered as a central focus of recognition of Islam.[45] In Germany, religious education in state schools is guaranteed by the constitution. Article 7, paragraph 3 accords to religious communities the right to provide the contents of this subject organized and run by the state (Berlin and Bremen constitute formal exceptions). Thus, religious education is a field par excellence of cooperation between the state and religious communities. There has been a lengthy discussion about the introduction of IRE leading to a relatively broad consensus that IRE should be introduced. The lack of a definite Muslim organisation being a partner and contact for the state constitutes the main obstacle. Nevertheless with more pragmatic arrangements IRE has started in seven federal states as a model project in selected schools in 2003. IRE creates its own organisations, provisionally replacing a broad Muslim representation: a round table with representatives of several Muslim associations such as in Lower Saxony, or local parent associations like in Bavaria.
In many respects, IRE approximates the logic of

participation to a larger degree: Islam becomes part of school education; Islam has to correspond to the framework of curricula and school authorities; teachers of IRE participate in many discussions with their colleagues. Although these teachers are regarded as representatives of Islam by their colleagues, students or parents, their affiliation is usually looser than that of representatives of associations. Moreover, teacher training takes place at state universities where IRE becomes a subject like others. Hence, IRE illustrates that Islam forms an integral part of society.

It would be possible to discuss IRE on the basis of curriculum or a monitoring of lessons.[46] In this case, the exemplary look at the first school book is taken as an access. This book has the title "Saphir" (meaning "jewel" or "sapphire"). The first volume is intended for the fifth and sixth grades. Already in the third chapter with the title "To Be God's Creation" there is a double page on responsibility as a marker of identity for human beings ("Mensch sein heißt, Verantwortung zu übernehmen"). The constitution and Islam are compatible:

> *"All human beings have rights and duties and bear responsibility together – independent of their religion."*[47]

Human dignity and life are also considered values in Islam. Later in the book there is another comparison of the Treaty of Medina and the implementation of the German constitution.[48] Justice and pluralism are a recurrent theme throughout the whole book. Interestingly, the glossary at the end of the book contains, besides many religious terms, the entry "Grundgesetz," meaning the German constitution, which is mentioned in several chapters of the book.[49] Thus loyalty to the state and its constitution can be seen as an implicit goal of "Saphir."

The IGMG published an anonymous and very critical "review" of "Saphir" on its website.[50] It accused the authors of mixing a theological and religious study approach and thereby presenting a watered down Islam. In his response in the "Zeitschrift für Religionslehre des Islam" (ZRLI),

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[43] Cf. Schmid/Akca/Barwig, Gesellschaft (note 26), 258s.

[44] Cf. Tarek Badawia, "Ana laha." "Ich nehme es selbst in die Hand" – Muslimische Jugendliche und ein islamischer Bildungsauftrag, für den sich sonst keiner zuständig fühlt, in: Bukow/Yildz, Islam und Bildung (note 3), 115-134.

[45] Cf. Mouhanad Khorchide, Der islamische Religionsunterricht zwischen Integration und Parallelgesellschaft: Einstellungen der islamischen ReligionslehrerInnen an öffentlichen Schulen, Wiesbaden 2009, 57s. Cf. as introductions to the topic: Hansjörg Schmid, Wie der islamische Religionsunterricht die Gesellschaft verändert, in: *Katechetische Blätter* 135 (2010), 136-141.

[46] Cf. Irka-Christin Mohr/Michael Kiefer (eds.), Islamunterricht – Islamischer Religionsunterricht – Islamkunde. Viele Titel – ein Fach?, Bielefeld 2009.

[47] "Alle Menschen haben Rechte und Pflichten, sie tragen gemeinsam Verantwortung – unabhängig von ihrer Religion." Lamya Kaddor et. al. [eds.], Saphir 5/6. Religionsbuch für junge Musliminnen und Muslime, München 2008, 37.

[48] Cf. ibid., 85.

[49] Cf. ibid., 185s.

[50] Cf. "Stellungnahme der IGMG zum Religionsbuch Saphir 5/6," in: www.igmg.de/verband/presseerklaerungen/artikel/2009/05/20/9824.html?L=.html.

which is the first journal in German for teaching Islam, Harry Harun Behr, professor for Islamic religious pedagogy in Erlangen-Nuremberg and one of the editors of "Saphir," stresses the Muslims' solidarity with all human beings:

> *"According to my view, Islam is more about issues concerning all of us than about issues concerning us exclusively as Muslims."*[51]

Humanism as a target of Islam stands in the core of Behr's Islamic religious pedagogy. According to needs of schools and young people, IRE stresses the plurality of identities which are like permanent construction sites,[52] and an individualized understanding of Islam. Thus, it is not very surprising that conflicts with Islamic associations that are the agents of collective Muslim identities arise. The situation of the individual, instead of common interests of Muslims, stands in the foreground.

To sum up, IRE with regards to contents and structures clearly follows the logic of participation. It will be interesting to observe further which results this teaching will achieve on other fields of Islam in the future.

III.4. Islamic Theology at Universities

Islamic theology at German universities is a relatively young phenomenon and started six years ago. Until now the majority of the imams are trained at foreign schools or universities. At the moment there are two chairs at Münster, two at Osnabrück, two at Frankfurt (soon there will be a third one) and one at Erlangen-Nuremberg.[53] Their task is to train teachers for IRE, Muslim theologians, in the future also imams.[54] They have no ordinary legitimization from a Muslim community, but somehow Muslim associations have been consulted in all cases. The holders of the seven

chairs have been invited for many lectures and have become quite famous faces of German Islam. Besides their research they all reflect on how Islamic theology can be build up in Germany and which steps would be necessary in order to gain recognition as Muslims. Harry Harun Behr describes Islamic theology in the German context as "discourse- and process-related by providing help in situations of social and political change."[55] This theology is, according to Behr, highly situational, as it arises from and aims at the concrete situation, what leads to an inner-Muslim plurality.[56]

Muhammad Kalisch who has held the first chair at the University of Münster since 2004 published a widely received statement about the Danish Muhammad caricatures. He stipulates self-criticism and a process of learning on both sides. Absolute freedom is paramount, even when religious sentiment is violated:

> *"In the conflict between freedom of expression and freedom of science on the one hand and religion on the other hand there must be an absolute freedom of opinion and science, even if this might violate religious sentiment."*[57]

This means participation of Muslims in debates without any restrictions because of religion. Meanwhile, a conflict between Kalisch and Muslim associations arouse as Kalisch himself called upon this freedom postulating that Muhammad might not have existed.[58] With this statement, according to many Muslims, he exceeded the framework of Islam so that he was no longer accepted as someone legitimated to train future teachers of Islam. Bülent Ucar from Osnabrück University stated that Muslims have been rejected or regarded as aliens in society. According to Ucar, the formation of elites is therefore necessary for Muslims, which is one of

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[51] "Der Islam teilt uns nach meinem Dafürhalten mehr über Dinge mit, die uns alle gemeinsam betreffen, und weniger über Dinge, die uns exklusiv als Muslime betreffen." Harry Harun Behr, Ein Saphir mit Schliff. Zur Stellungnahme der islamischen Gemeinschaft Milli Görüş e.V. [IGMG] gegen das Schulbuch Saphir, in: *ZRLI* 3 [2009] nr. 5, 2–25, here 7.

[52] Cf. Harry Harun Behr et al. (eds.), Was soll ich hier? Lebensweltorientierung muslimischer Schülerinnen und Schüler als Herausforderung für den Islamischen Religionsunterricht, Berlin 2010.

[53] Cf. the introductions to some of these courses of study in: Wolfram Weiße (ed.), Theologie im Plural. Eine akademische Herausforderung, Münster 2009.

[54] Cf. Rauf Ceylan, Die Prediger des Islam. Imame – wer sie sind und was sie wirklich wollen, Freiburg 2010. Ceylan has been professor at the University of Osnabrück since summer 2009.

[55] "(D)iskursiv und prozessual, indem sie Hilfestellung in gesellschaftlichen, sozialen und politischen Umbruchsituationen leistet." Harry Harun Behr, Ein ordentliches Fach? Neue Wegmarken für den Islamischen Religionsunterricht, in: *Herder Korrespondenz* 61 [2007], 298-303, here 303.

[56] Harry Harun Behr, Grundriss islamisch-theologischen Denkens im Kontext der Bundesrepublik Deutschland, in: *ZRLI* 1 (2007), H. 1, 2-9, here 4.

[57] "Im Spannungsfeld von Meinungsfreiheit und Wissenschaftsfreiheit einerseits und Religion andererseits muss es eine absolute Freiheit der Meinung und der Wissenschaft geben, auch wenn dies religiöse Gefühle verletzen mag." Muhammad Kalisch, Stellungnahme zum gegenwärtigen Konflikt um Karikaturen, die den Propheten Muhammad abbilden, in: www.compass-infodienst.de/Muhammad_Kalisch__Stellungnahme_zum_Konflikt_um_die_Mohammed-Karrikaturen.5852.0.html.

[58] Cf. on the case Peter Philipp, Doubt about Muhammad's Existence Poses Threat to Islamic Religious Education (18.9.2008), in: www.en.qantara.de/webcom/show_article.php/_c-478/_nr-812/i.html.

the tasks of the chairs.[59] In a recent article Ucar claims that Islamic theology can be critical and dialogue-oriented, but needs to be authentic in order to be accepted by Muslims:

> *"In the long run, this recognition and legal equal treatment serves as a basis for participation and integration."*[60]

According to Ucar, this means that recognition and equal ranking of Islam will be necessary. Before this has been achieved, participation and integration may take place in more informal ways.

Ömer Özsoy, whose chair at Frankfurt University has been donated by the Turkish Diyanet, states that acceptance and internalization of democratic and pluralistic values are necessary for Muslims. He sees it as a task for Islamic theology to contribute to this process.[61] His colleague Abdullah Takim stresses the need of a scientific articulation and public comments on important topics by German Muslims:

> *"In my view, the Muslims in Germany have to articulate on a scientific level and to work out positions on important topics (both social and theological) in order to make themselves be understood and to contribute to the community, for Islam has meanwhile become an integral part of Germany."*[62]

Both in Osnabrück and in Frankfurt the chairs have organized interdisciplinary congresses.[63] Representatives of different scientific disciplines contributed to these congresses and also had a look on Islam from outside. Thus Islamic theology

is on the point of becoming a discipline in the concert of sciences at German universities.[64] The professors for Islamic theology in Germany are highly independent and not in the service of any associations (also in Frankfurt). They critically reconstruct Islam stressing historical change and the ability to adapt. Thus they have acquired a high degree of respect. In the 1990s the representatives of the associations functioned as main public spokespersons of Islam in the media and conferences, while nowadays these professors as learned experts are often preferred. They are participating in the scientific discourses and are arguing for participative forms of Islam. Although their juridical legitimization within the Muslim communities is not always clear, they are affecting recognition. Their chance will be to form Islam on a broad scale in the future by training imams, theologians and teachers.

III.5. Inter-Religious Dialogue between Muslims and Christians

In this field some empirical research has started which can serve as a basis for analysis.[65] Christian-Muslim dialogue takes place on many levels and in numerous projects. Concerning recognition this field breaks ranks, for at least in ideal cases Muslims and Christians act together and produce common identities. If this is not yet the case, at any rate equal social recognition may be acquired within the course or context of dialogue. Dialogue also has strong consequences on the participants and their communities of origin. It is one field which has helped Muslims to be present in the public sphere and to articulate their concerns. As Muslims and Christians are not yet in an equal position,

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[59] Cf. Bülent Ucar, Wie bringen die Religionen ihre ethische Botschaft in die gesellschaftliche Diskussion ein? Ein Beitrag aus muslimischer Sicht, in: Hansjörg Schmid et al. (eds.), Verantwortung für das Leben. Ethik in Christentum und Islam, Regensburg 2008, 229-248, 244.

[60] "Diese Anerkennung und rechtliche Gleichstellung bietet langfristig die Basis für Partizipation und Integration." Bülent Ucar, Islamische Theologie in Deutschland? Die Ausbildung von Religionslehrern und Theologen an staatlichen Hochschulen, in: Die Unbekannte Religion. Muslims in Deutschland (*Herder Korrespondenz Spezial* 2/2009), 31-35, here 32.

[61] Donner-Üretmek (red.), Drei Jahre (note 34), 277ss.

[62] "Meines Erachtens müssen sich die Muslime in Deutschland […] wissenschaftlich artikulieren und zu wichtigen gesellschaftlich-theologischen Themen eine Position erarbeiten, um sich verständlich zu machen und zum Zusammenleben beizutragen, denn der Islam ist mittlerweile Teil Deutschlands geworden." www.akademie-rs.de/fileadmin/user_upload/pdf_archive/schmid/2008_03_03_Takim_Antwort_Bischof.pdf, here 2.

[63] www.uni-frankfurt.de/fb/fb09/islam/forschung/symposien/index.html, respectively www.islamische-religionspaeda-gogik.uni-osnabrueck.de/973.htm.

[64] Cf. Ertugrul Sahin, Der schwierige Weg zur Einbürgerung des Islam. Plädoyer für eine islamische Theologie an deutschen Universitäten, in: *Forschung Frankfurt* 2008/1, 81-85 (also in: www.forschung-frankfurt.uni-frankfurt.de/dok/2008/2008-01/Der_schwierige_Weg.pdf). Sahin describes Islamic theology at state universities as a necessary milestone in order to naturalize Islam in Germany (85).

[65] Cf. Eva Maria Hinterhuber, Abrahamischer Trialog und Zivilgesellschaft. Eine Untersuchung zum sozialintegrativen Potenzial des Dialogs zwischen Juden, Christen und Muslimen, Stuttgart 2009; Gritt Klinkhammer/Ayla Satilmis, Kriterien und Standards der interreligiösen und interkulturellen Kommunikation – Eine Evaluation des Dialogs mit dem Islam. Projektabschlussbericht, Bremen 2007; Hansjörg Schmid, Zwischen Asymmetrie und Augenhöhe. Zum Stand des christlich-islamischen Dialogs in Deutschland, in: Peter Hünseler/Salvatore Di Noia (eds.), Kirche und Islam im Dialog. Eine europäische Perspektive, Regensburg 2010, 49-89. Cf. also Friedmann Eißler, Christian-Muslim Encounter – Recent Issues and Perspectives, in: Al-Hamarneh/Thielmann, Islam (note 24), 161-182.

Christians often act as advocates supporting Muslim needs and interests.[66]

A continuing difference of interests can be witnessed in several dialogues and over the course of many years. Church interlocutors predominantly want a dialogue on theological issues, whereas Muslims usually prefer a "concrete dialogue" that is orientated towards action and criticize a merely verbal exchange without any measurable results.[67] Muslims want to be recognized and get access to social resources by means of the dialogue, whereas Christians want to acquaint themselves with the religion perceived as foreign, so that they often take up the role of the inquirer and the Muslims, consequently, are pressed into the role of the respondents. Some Christian participants of dialogue observe that Muslims have started to retire from dialogue as they now have a direct access to the government (via the "Deutsche Islam Konferenz," for example). But this only applies to representatives of associations, not to those who work with one of the numerous grass-roots organisations.

Since the 1980s, Muslims have founded special associations for dialogue often named "Christlich-Islamische Gesellschaft" (CIG) in several cities and regions. In analogy to the formation of Muslim umbrella organisations, in 2003 an umbrella organisation of now 17 local dialogue organisations was founded, the "Koordinierungsrat des christlich-islamischen Dialogs" (KCID). The organisation has intended to create structures for acquiring financial support and to build up a lobby for inter-religious dialogue. Further aims are networking, common activities, commitment for peaceful coexistence and comments, when issues of a fair media coverage and religious freedom are touched.[68] The KCID is a sort of agency of representation, but as it is based on organisations with local activities, it can be considered as a balanced mutual complement to representation and participation.

If it is more for the sake of representation or participation, it depends on who is active in dialogue and in which context. Spokespersons of Muslim associations usually follow their strategy of representation in dialogues like in any other context. But generally inter-religious dialogue can be seen as a means of participation. Participation can be both a topic and a target of dialogue. Like typically in the religious field, dialogue initiatives often comprise all social classes so that dialogue has a particular relevance for participation.[69] Dialogue creates networks and new institutions in which people with different religious affiliations act together in civil society. This breaks open limits of the religious communities and identities. This does not only have a symbolical meaning, but these entities may act as a mediator in the case of crises. Dialogue shows both communalities and differences and is also a procedure to deal with these differences by integrating them into a broader picture. Furthermore, dialogue eliminates prejudices and contributes to get to know the other. Images of the self and the other are brought into a dialogue. In dialogue, one experiences the inner plurality of the religions. Finally, experiences of discrimination and victimization can be broken up in dialogue.

To sum up, the relevance of inter-religious dialogue for recognition is high. Dialogue anticipates social recognition in a microcosm which ideally will emanate on the society as a whole.

III.6. Muslim Articulation in the Media

In addition to the fields treated so far, the field of media cannot be neglected. What is considered as essential here are articulations in German language addressed not only to Muslims but also to the whole society. The field can be divided into three categories:

First, journalists with a Muslim background writing for mainstream media: The most prominent figure in this category is Navid Kermani.[70] As this area is very varied and difficult to grasp, it will not be discussed here in more detail.

Second, "Muslim media": This is a field marked by less participation, but it can be seen in analogy with newspapers like the weekly "Jüdische Allgemeine," edited by the "Zentralrat der Juden in Deutschland," or the weekly "Rheinischer Merkur" held by the German Bishops' Conference and several dioceses. In this context the monthly "Islamische Zeitung" has to be mentioned:[71] It contains articles by a variety of authors on diverse topics – all in German language. The circulation figure is not known, it is not yet very professional and not quoted in press reviews. Despite its partly

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[66] Cf. Hansjörg Schmid, Anwälte, Vermittler oder Partner? Zur sozialen Rolle kirchlicher Akteure im christlich-islamischen Dialog, in: Peter Hünseler (ed.), Im Dienst der Versöhnung. Für einen authentischen Dialog zwischen Christen und Muslimen (Festschrift für Christian W. Troll), Regensburg 2008, 115-145.

[67] Hansjörg Schmid, Concrete Dialogue. About What Muslims Talk with Christians in Germany, www.con-spiration.de/texte/english/2008/schmid2-e.html, 472.

[68] Cf. www.kcid.de/kcid/satzung.php.

[69] Cf. Hinterhuber, Trialog (note 65), 187.

[70] Cf. www.navidkermani.de/view.php?nid=0&switch_lid=2 and his most recent monography: Wer sind wir? München 2009. Cf. Sabine Schiffer, Islam in German Media, in: Al-Hamarneh/Thielmann, Islam (note 24), 423-440.

[71] Cf. www.islamische-zeitung.de.

missionary intention[72] and some critical points concerning the ideological background,[73] it contributes many current political and economic debates. There is a column, "Muslime & Global-isierung," with pro and con articles on issues of economy and sustainable development. Besides general issues, the concerns of Muslims are at the centre of the newspaper. It features regular reports on activities of Muslims and Muslim associations in various parts of Germany and abroad. Reports on new mosques are quite frequent in the column "Muslime & Lebensart," German for Muslims and way of life. However, in the regular interviews roughly half of the interviewees are non-Muslims. An example for Muslim concerns is a recent leading article on the new German Minister of the Interior, Thomas de Maizière.[74] Although half of the article is about how he might continue the "Deutsche Islam Konferenz," it is well-balanced. Another issue regularly picked up is how the German majority perceives Muslims. While one article paints a dark picture, calls the term Islamism "a merciless measure of sanction and exclusion"[75], but claims at the same time that approaching the majority is essential,[76] another article after the murder of Marwa El-Sherbini in a Dresden court in July 2009 is cautious and states that despite a growing anti-Muslim sentiment, Germans are not hostile to Islam in general.[77] Thus, the "Islamische Zeitung" can be described as a mixture of lobby institution and an attempt to participate in public debate. Articles on political issues, elections, etc. make evident that as far as the "Islamische Zeitung" is concerned, participation does not render the Muslim motivation invisible. On the contrary, it is a way to be publicly present as Muslims. However, to broaden these observations a more lengthy analysis of the journal would be necessary. Third, special projects comparable to proclamation broadcasting in public media, for which Muslims do not yet have a right due to the lack of formal recognition: There is one project run by the Südwestrundfunk (SWR) called "Das Islamische Wort – Muslimische Glaubensbeiträge" (The Muslim Word – Contributions of Muslim Faith), which can be heard and read on the internet and which will be presented here as an example.[78] It addresses both Muslims and non-Muslims. Although the broadcasting contains witness of faith, it is under the main responsibility of the editorial staff. Whereas the project was disputed in the beginning, meanwhile it has found a broad acceptance and is considered an important contribution to integration. Two authors are important figures in Muslim associations, whereas the other two are Muslim intellectuals. Among the themes broadcasted so far are theological, spiritual and ethical issues.[79] One of the contributions stresses that Muslims should struggle for the whole of humanity before speaking of Muslim solidarity.

Furthermore, the author observes that it is still difficult to imagine Muslims criticize the federal government in general political issues like the churches do.[80] In line with this, another text states that education and learning should not aim at increasing wealth, power and respect, but contribute to the "peaceful progress of all people."[81] Similarly, other contributions look at economic issues namely protection of the environment from a perspective which is partly general and partly shared by Judaism, Christianity, and Islam.[82] Concerning racism, a topic which was treated in the face of the murder of the Muslim Marwa El-Sherbini in Dresden, the perspective may be described as that of universal fraternity so that Muslims should not only show pity when Muslims are attacked but also resist all kinds of Anti-Semitism and racism.[83] Finally it is stated that the Qur'an contains "fundamental and universal values" and that Muslims and non-Muslims should participate in the "collective struggle for a prosperous and peaceful living together."[84] The Islam of the "Islamische Wort" is not an Islam strug-

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[72]   In many editions there is an advertisement "Wie kann man deutsche Muslime kennenlernen?" (How to get to know German Muslims [which means here converts to Islam, H.S]), e.g., nr. 167, 4; nr. 171, 4, etc.
[73]   Cf. Hansjörg Schmid, Ein schwieriges Verhältnis. Muslime und Öffentlichkeit in Deutschland, in: *Herder Korrespondenz*
[60]   (2006), 75-79, here 78.
[74]   Cf. Khalil Breuer, Der leise Schäuble. Der neue Innenminister wirkt sachlich und kompetent – aber wie geht die Islamkonferenz weiter?, in: *Islamische Zeitung* nr. 176, February 2010, 1.
[75]   "gnadenlos wirksame Sanktions- und Ausgrenzungsmaßnahme"
[76]   Cf. Malik Özkan, Geht es um den Islam? Islamgegner organisieren Mehrheiten gegen Muslime, in: *Islamische Zeitung* nr. 175, January 2010, 1 and 10.
[77]   Cf. Sulaiman Wilms, "Deutschland ist nicht islamfeindlich." Auch die deutschen Muslime sollten nicht von einem Einzelfall auf das Ganze schließen, in: *Islamische Zeitung* nr. 170, August 2009, 1.
[78]   There is also the "Forum am Freitag" by the ZDF which is less focused on religion: www.forumamfreitag.zdf.de.
[79]   Cf. www.swr.de/islamisches-wort, and the overview with links to all texts www.islam.de/9442.php; cf. also Reinhard Baumgarten (red.), Das Islamische Wort – Muslimische Glaubensbeiträge im SWR, Stuttgart 2009.
[80]   Hilal Sezgin, Der „selbstverständliche" Islam, in: ibid., 77-79, here 79.
[81]   Emina Corbo-Mesic, Islam und Bildung, in: ibid., 28-30, here 30.
[82]   Aiman Mazyek, Schattenreiche Zinswirtschaft, in: ibid., 86-89, here 88; Emina Corbo-Mesic, Des Schöpfers Geschöpfe und seine Schöpfung (October 2009), www.islam.de/9442.php.
[83]   Aiman Mazyek, Rassismus tötet (August 2009), www.islam.de/9442.php.
[84]   Bekir Alboga, Islamische Werte und das Grundgesetz, in: Baumgarten, Das Islamische Wort (note 79), 94-96, here 95 respectively 96.

gling for representation, but an Islam which considers itself being an ethical resource for the whole society. Even when broaching the issue of islamophobia, this is not done primarily from the perspective of victims, but from a pro-active one.[85] Only one out of 34 texts published so far is about the claim for equal treatment and recognition – but this text, in the end, pleads not to limit the political perspective on religion:

> „Many other things, however, Muslims do not need as Muslims but merely as humans."[86]

The examples of the "Islamische Zeitung" and the "Islamische Wort" illustrate that the framework strongly affects the picture of Islam: on the one hand a journal built up and run by Muslims, on the other hand a programme of a public broadcasting company. Thus non-Muslim institutions can also contribute to a participative Islam.

IV. Conclusion: A Direct Road to the Arena of Civil Society?

It is not the aim of this essay to judge which of the six presented fields is the most important – they are all relevant. Sometimes they stand side by side, indifferent and complementary, sometimes they reinforce one another, at other times they are in tension or even in conflict. E.g. the Islam of IRE is quite different from the one of the Islamic associations. Thus the fields imposingly illustrate that in Germany a rich plurality of Islam has grown in the last decade. One can speak of a contextual German Islam, for which the articulation in the German language has become self-evident. Due to the organisational grade and structure it is difficult to decide who represents the German Muslims. This strongly limits the scope of presentation. Nevertheless recognition takes place through both strategies. In many cases representation and participation are overlapping and inseparable from each other. Representation needs participation and *vice versa*. Like a political scientist stated:

> "Without representation there is no participation […]."[87]

The examples show that a certain degree of representation is necessary. But also a growing tendency towards participation can be observed. Recognition is in any case a result of communication and interaction. As there is certain mistrust towards the Islamic associations and their ambition for representation, the path of participation – such as proposed by Dilwar Hussain – may be more promising. The political and social role of religious communities in Germany not only results from their legal status. Moreover, recognition is not primarily accorded on the top level, but in many places grows from the bottom up.

The imitation of the established Christian churches may be misleading for German Muslims. As José Casanova demonstrated, there is a shift for religious activists from the arenas of the state and of political society to that of civil society.[88] Among Christian theologians it has been disputed, if the churches with their divine origin and long tradition should be seen as agents of civil society.[89] For the churches looking back on a long history of a close relation with the state it is not always easy to render power and to share former privileges. They still have to complete the step from "state-oriented" to "society-oriented" institutions.[90] For Muslims with their loose structure of associations and their internal pluralism this step might be easier than for the churches:

> "Conceptually however Muslim political discourse has lost this emphasis, simply referring to the 'individual' and the 'state', largely neglecting notions of civil society. The emphasis in Muslim political thought now should be on reviving and maintaining the independence of civil society […]."[91]

To be part of civil society means sharing and convincing with arguments instead of relying on monopolies and privileges. Therefore alliances with other social entities may occur. Contributing to the civil society also strengthens social cohesion and democracy. The doors of civil society are open for German Muslims and there is no need to wait for decades to achieve a certain legal status.[92]

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85 Aiman Mazyek, Morgenland im Abendland (December 2009), www.islam.de/9442.php, which was written due to the Swiss referendum banning the construction of minarets.

86 "Vieles weitere allerdings brauchen Muslime gar nicht als Muslime, sondern schlicht als Menschen." (Hilal Sezgin, Muslime und Macht, September 2009), www.islam.de/9442.php.

87 "Ohne Repräsentation gibt es keine Partizipation […]." Volker Gerhardt, Partizipation. Das Prinzip der Politik, München 2007, 25.

88 José Casanova, Public Religions in the Modern World, Chicago 1994, 61-63, 218s.

89 Cf. Frank Adloff, Zivilgesellschaft. Theorie und politische Praxis, Frankfurt/New York 2005, 119. Cf. also Dilwar Hussain, Islam and Civil Society in the UK, in: www.euro-muslims.eu/en/menu-vertical/emn-members-articles/detail/news/islam-and-civil-society-in-the-uk/.

90 Cf. Casanova, Public Religions (note 88), 220.

91 Yasir Suleiman et al., Contextualizing Islam in Britain: Exploratory Perspectives, Cambridge 2009, 38 (available on www.cis.cam.ac.uk/CIBPReportWeb.pdf).

92 A lack of financial and organisational resources can limit the activities in the civil society. This might be another argument to go further.

Dr. Tahir Abbas

The British Pakistani Diaspora:
Migration, Integration and the Intersection of Race, Ethnicity and Religion

This paper provides a sociological overview of the post-war immigration, settlement and community development of British Pakistanis. First, the paper provides a historical perspective on issues of migration and settlement. Second, an analysis of demographics and social mobility provides a deeper socio-economic contextualisation, with a focus on the city of Birmingham as a test case. Finally, the implications for community development in the context of plural societies is explored in the light of recent events where British Pakistanis have attained less favourable notoriety, namely in questions of socio-economic status, radicalisation and extremism. It is suggested that there are significant challenges faced by this community, but very few real social, economic, political and cultural opportunities to better engage in society.

At the end of the Second World War, Britain was no longer able to hold on to many of its colonies. As a parting gesture, the Raj gave Pakistan the independence it wanted in 1947; however, the region was in turmoil after the displacement of 10 million people and the death of up to one million – the largest forced exodus in the 20th century. There was now an Eastern and Western Pakistan, with India in between. It was widely held that Kashmir ought to have arrived into the hands of the newly formed Pakistan, as understood by Muhammad Ali Jinnah (1876–1948), the first Prime Minister of Pakistan. For many, it was the association between Pandit Jawaharlal Nehru (1889–1964) and Lord Mountbatten (1900–79) that led to Kashmir being disputed by both Pakistan and India (they have gone to war three times over this territory).[1]

The end of the Second World War also resulted in the end of the British Empire. Back in Britain, this meant the reconstruction of a nation; however, the conflict left Britain short of domestic labour to meet growing domestic demand. This workforce scarcity was also common to a number of other Western European economies at the time, including France and Germany. British policy, however, differed from other Western European nation-states because it failed to capitalise upon initiatives to 'exploit' immigrant labour for the specific purposes of domestic economic expansion. Realising that newly recognised British citizens from the Caribbean and South Asia would make Britain their home, the

restriction of net immigration, in response to public opinion, effectively hindered domestic economic growth. The Labour Government of the time, in essence, reduced the inflow of migrant labour to address domestic political concerns, a 'paradox', according to Robert Miles.[2] The British Labour Party demonstrated a profound preference for 'aliens' from Eastern Europe over those Caribbean and South Asian immigrants who had become, effectively, British citizens. These attitudes towards visible ethnic-minority migrant labour remained largely hidden from the public.[3]

Manpower was needed for work in certain industrial sectors which were in decline and in which the 'host' population no longer wished to be employed. It was a racist perception that only ethnic minorities would be willing to work in these menial, dirty jobs, unable to perform other advanced functions. The economic recession of the late 1950s, however, eliminated the need for both domestic and migrant labour in these industries. By then, local communities and national institutions had already developed outward hostilities towards ethnic minorities.[4] It was increasingly becoming the case that ethnic minorities were concentrated in the inner areas of older industrial towns and cities. They lived in close proximity to working-class white British indigenous communities unable to escape economic decline or to make their way out of these depressed localities. The somewhat limited acceptance on the part of the indigenous working classes was based on the belief that ethnic-minority and Muslim workers would eventually return to the sending regions once their employment terminated. Rarely was it imagined, or for that matter desired, that ethnic minorities would remain, forming and establishing communities over time. In many senses, migrant labour in Britain, as was the case in many other advanced Western European economies, originating invariably from once-colonised lands, filled a gap at the lower echelons of society. Many South Asian Muslim migrants were, in effect, placed at the bottom of the labour market, disdained by the host society and ethnicised and racialised in the sphere of capital accumulation. These workers were recruited into those industrial sectors most in decline, and, as such, their positions in society were located below the white British working

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1   Choudhury, G. W. (1968) Pakistan's Relations with India 1947–1966, London: Pall Mall.
2   Miles, R. (1989) Racism, London: Routledge.
3   Carter, B. and S. Joshi (1984) 'The Role of Labour in the Creation of a Racist Britain', in: Race and Class, 25 (3): 53-70.
4   Layton-Henry, Z. (1984) The Politics of Race in Britain, London: Harper-Collins.

classes, with the latter arguably having greater opportunity to attain social mobility.[5]

At the beginning of the 1960s, the number of immigrants entering Britain from South Asia was at its zenith. Towards the end of the 1960s, however, immigration from South Asia had all but ended. Both the peak in 1961-62 and the decline to 1968 were the result of the Commonwealth Immigrants Act 1962 and the Commonwealth Immigration Act 1968. Labour demands continued the unrestricted migration trends up until the Commonwealth Immigrants Act 1962. The new legislation had the effect of significantly increasing the rate of immigration in the eighteen months prior to its enactment. The rise in immigration not only arose from the introduction of the Act but also the construction in 1960 of the Mangla Dam in Pakistan. In the Mirpur district of Azad (Free) Kashmir, large numbers of people were displaced due to the flooding of approximately 250 villages in this region, and many of these South Asian Muslims emigrated to Britain.[6] The state of Azad Jammu and Kashmir, usually shortened to Azad Kashmir ('Free Kashmir'), is part of a section of the Kashmir region administered by Pakistan along with the Northern Areas.

Although defined as Pakistanis, the Pakistanis in Britain predominantly originate from the Mirpur district of Azad Kashmir. The term 'Mirpuri' is also interchangeably used with the terms 'Pakistani' or 'Azad Kashmiri'. It is difficult to estimate the proportion of Pakistanis in UK who are actually from the Azad Kashmir district. Many of the Pakistanis in the West Midlands and in the north of England are Azad Kashmiris, although the category itself is not recognised in official statistics. The term 'Azad Kashmiri' has not become accepted parlance in academic or practitioner discourse. It is also important to state that some people would not consider Azad Kashmir to be part of Pakistan at all or would neither wish to be identified as Pakistanis for political or cultural reasons.

In effect, the Commonwealth Immigrants Act of 1962 changed the pattern of South Asian immigration: rather than 'pioneer' men, it was their wives, fiancées and children who arrived, with many South Asians from India and Pakistan seemingly rushing in an attempt 'to beat the ban' created by the Act.[7] The unintended rise in immigration continued beyond the implementation of the Act in 1962, when those who had already settled in Britain were joined by their dependents.[8] The Act was initially intended to halt immigration due to growing public and political concerns over the desirability of large-scale immigration of 'coloureds', as South Asian and Caribbean immigrants were termed. Almost 130,000 Pakistanis arrived in Britain in the eighteen months preceding the 1962 Act.[9] A voucher system was introduced that encouraged patterns of chain migration. Those who were already in Britain could assist in the migration of their friends and relatives. The voucher system had the effect of significantly reducing the number of immigrants who were coming to Britain in order to work. Subsequent amendments to the original 1962 Act in 1968 led to wider restriction of immigration from New Commonwealth countries. On each occasion, the move reflected the politicisation of ethnic minorities in Britain. As a consequence of changes to the legislation, the South Asian settlement became more permanent and family-oriented.[10] At the turn of the 1970s, Britain had a large number of distinct South Asian Muslim communities, many of which were Pakistanis and Azad Kashmiris living and working in distinguishable parts of the country.

Historically, Muslims have arrived and settled in Britain for over a thousand years, entering the economy and society as traders, bankers, spice merchants, medical students, sailors and servants.[11] In the late nineteenth century, under the rule of the British Raj, Indians from upper-class backgrounds came for the specific purposes of education and enterprise. It could be argued that the current Pakistani population possesses similar educational and entrepreneurial ambitions but it is, however, drawn from the more impoverished areas in the sending regions of Azad Kashmir in northwest Pakistan. Invariably, the principal aims of South Asian Muslims at the beginning of the 1960s were to create as much wealth as possible before returning to their countries of origin, supported by a 'myth of return'[12]. This return, however, did not happen – whether by chance (opportunity) or by design (legislation).

The 1971 Census showed second-generation ethnic minorities, in particular South Asian Muslims, remaining within the same geographical

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[5]   Castles, S. and G. Kosack (1973) Immigrant Workers in Western Europe and Class Structure, London: Oxford University Press.
[6]   Nielsen, J. (2005) Muslims in Western Europe, Edinburgh: Edinburgh University Press.
[7]   Deakin, N. (1970) Colour Citizenship and British Society, London: Panther.
[8]   Anwar, M. (1998) Between Cultures: Continuity and Change in the Lives of Young Asians, London: Routledge.
[9]   Nielsen, op. cit.
[10] Modood, T. (1990) 'British Asian Muslims and the Rushdie Affair', in: Political Quarterly, 61 (2): 143-60.
[11] Commission for Racial Equality (1996) Roots of the Future: Ethnic Diversity in the Making of Britain, London: CRE.
[12] Anwar, M. (1979) The Myth of Return: Pakistanis in Britain, London: Heinemann Educational.

locations as their parents. Two decades later, the 1991 Census showed second- and third-generation South Asian Muslims choosing to do the same.[13] The trend is argued to be a function of the younger generations maintaining the religious and cultural traditions of the generation before them as well because of negative experiences found in the labour market.[14] Many of the South Asian Muslims, specifically those from the rural areas of Azad Kashmir in Pakistan and Sylhet in north-west Bangladesh, are working in declining or highly competitive manufacturing, textile and service sectors. They are living in inner-city housing built at the turn of the 20th century, which is often in need of substantial repair and maintenance, and as joint and extended families in relatively restricted ethnically and culturally homogeneous communities. They remain close to kith and kin, extending religious and cultural manifestations of life, helping to directly shape their presence in Britain. It is also a period in which subsequent generations have begun to question their religious and cultural values as well as the emergence of the increasing link between local and global capitalism. As with other groups in society, de-industrialisation, technological innovation and the internationalisation of capital and labour have helped to ensure that British South Asian Muslims remain close to the bottom of the pile.[15] These were patterns established early on in the immigration and settlement of Pakistanis, but these social divisions remain, largely as a function of structural and cultural racism, as well as the fact of increasingly competitive education and labour markets.[16]

Pakistanis in the Midlands and the north of England almost exclusively originate from the Mirpur district of Azad Kashmir. A number of British Pakistanis also come from the Punjab region of Pakistan, but these groups have largely settled in the de-industrialised inner cities to the North or South-East. Before immigration, many of the Pakistanis in the Midlands and the North lived and worked in rural areas. Families were usually extended, with up to three generations living in one household. The men worked on small land holdings or in specialist craft work, while women maintained domestic order and looked after livestock.[17] Families lived in close proximity to each other and were know-ledgeable of what each member was doing. A recent socio-anthropological study of a Pakistani community in Oxford shows how strong the village-kin network is in the sending regions. Among rural-origin immigrants from northern Punjab, it has remained relatively intact as part of adaptation to Britain.[18] In the 1950s and 1960s, only men were prevalent, and they initially regarded their stay as temporary. Eventually, younger men from the sending regions replaced older Pakistanis, and a cyclical pattern emerged. Early Pakistani immigration was dependent upon this form of chain migration and, in particular, the regular remittances of capital sent back to the sending regions.[19] This is how the Pakistani immigration process differed from that of the Punjabi Sikhs and the African Caribbeans. These 'pioneer' Pakistanis worked hard to ensure their existence, as did other South Asians. Many had to fully adapt to the host society to persevere and, for some, this resulted in forsaking distinct cultural and religious traditions and values for more 'Westernised' ones.[20]

In relation to religion, there is a strong desire for the 'Islamisation' of second- and third-generation British Muslims. Present-day British-born South Asian Muslims, which include all Bangladeshis and Pakistanis and approximately 15 per cent of all Indians, are increasingly distinguishing their ethnic from their religious identities. The nature of Islam among these groups is questioned and re-examined in the light of inter-generational change. Young Bangladeshis experience a similar reality to young Pakistanis as the re-evaluation of their individual, political, cultural, ethnic and religious identities has involved a return to a more literal Islam. In contemporary Islam, there are two main sects, Shi'a and Sunni. In addition, the Barelwis, Tablighis and Deobandis are all branches of Sunni Islam, but a 'purer' Islam is seen to be removed of any cultural accretions.[21]

In many of the concentrated urban centres where Muslims are found, by far the majority of all Muslims are Sunni, and the high numbers of mosques are evidence of a commitment to remain in Britain and teach younger Pakistanis the values and ways of Islam. In certain localities, there are specialist Muslim goods and services outlets, such as *halal* butchers, travel agents, clothing stores, fruit and vegetable grocers, restaurants, jewellers and book-

[13] Phillips, D. (1998) 'Black Minority Ethnic Concentration, Segregation and Dispersal in Britain', in: *Urban Studies*, 35 (10): 1681-702.

[14] Robinson, V. (1996) 'Inter-Generational Differences in Ethnic Settlement Patterns in Britain', in: P. Ratcliffe (ed.), Ethnicity in the 1991 Census, Vol. III: Social Geography and Ethnicity in Britain: Geographical Spread, Spatial Concentration and Internal Migration, London: HMSO, pp. 175-99.

[15] Massey, D. and R. Meegan (1982) The Anatomy of Job Loss, London: Routledge.

[16] Babb, P., H. Butcher, J. Church and L. Zealey (eds.) (2006) Social Trends, no. 36, London: Office for National Statistics.

[17] Dayha, B. (1974) 'The Nature of Pakistani Ethnicity', in: A. Cohen (ed.), Urban Ethnicity, London: Tavistock, pp. 97-125.

[18] Shaw, A. (1988) A Pakistani Community in Britain, Oxford: Basil Blackwell.

[19] Saifullah-Khan, V. (1976) 'Pakistanis in Britain: Perceptions of a Population', in: *New Community*, 5 (3): 222-9.

[20] Dayha, B. (1988) 'South Asians as Economic Migrants in Britain', in: *Ethnic and Racial Studies*, 11 (4): 439-56.

[21] Robinson, F. (1988) Varieties of South Asian Islam, University of Warwick: Centre for Research in Ethnic Relations.

shops – all owned and managed by Pakistanis and all contributing to form and establish distinct ethnic enclave economies. Such entrepreneurial activity reinforces a sense of community as local businesses gear their activities towards the needs of the local people. It further helps the creation of communities that hold close various manifestations of religious and cultural life.[22]

The size of the Muslim population in Britain was the subject of much controversy during the 1980s and 1990s. The rise in the political importance of Islam, internationally and domestically, in particular after the Iranian Revolution of 1979, led to various estimates being made. In the early 1990s, the number was thought to be as low as 900,000[23] or as high as 1.5 million.[24] Today, because of the 2001 Census, it is possible to show how the official 1.6 million population of Muslims in Britain is highly concentrated into a small number of large urban areas: in particular, London (607,000), the West Midlands Metropolitan County (predominantly Birmingham – 192,000), Greater Manchester (125,219), and the West Yorkshire Metropolitan County (primarily the Bradford Leeds urban area – 150,000). Ten of the twenty local authorities with the largest number and highest proportions of Muslims in England and Wales are London boroughs. Tower Hamlets, in the East End of London, has the highest percentage of Muslims of all the local authorities in Britain (36 per cent) and it is also the third largest in size. It is the centre of the Bangladeshi population in Britain, and the borough contains nearly a quarter of the total Bangladeshi population in the country. Despite growing by 66 per cent between 1991 and 2001, the percentage of Bangladeshis living in Tower Hamlets has remained consistent.[25] Furthermore, in the urban areas in which they settled, Pakistanis and particularly Bangladeshis show high rates of residential clustering (or 'segregation'). This is a highly contentious subject as segregation tends to be politically and culturally charged, as well as being a genuinely difficult concept for statisticians and geographers to fully determine. Using the 2001 Census, on a scale from 0 (no segregation) to 100 (complete segregation), Pakistani segregation from white Britons averages 54, while the Bangladeshis

averaged 65. Bangladeshis showed the highest degree of segregation of any ethnic-minority population in Britain in the 1991 Census.[26] They showed a relatively high level of segregation from the Pakistanis (46), while Pakistani segregation levels compared with Indians was lower than it was with Bangladeshis (39 versus 46). Thus, even though Pakistanis and Bangladeshis share a religion and once shared a nationality, ethnicity appears to be a stronger bond than religion among these groups of South Asian Muslims.

The 2001 Census showed that 72 per cent of the population of the UK considered themselves Christian (around 42 million people). Islam was the second largest religion, with 2.7 per cent (around 1.6 million). Hindus accounted for 1 per cent, Sikhs for 0.6 per cent, Jews for 0.5 per cent and other religions for 0.3 per cent; just less than a quarter of the population had 'no religion' or did not state one. The 2001 Census also showed that 68 per cent of the Muslim population were South Asian. Pakistanis alone account for 43 per cent of the Muslim population and are the single dominant group. The number of white Muslims in England and Wales (179,000) was higher than expected, with one-third defined in the Census as 'white British' (around 61,000 people). The other two thirds are described as 'other white'. These include Turks,[27] Bosnians, Kosovars and Albanians, but also those originating from North Africa and the Middle East. The religion-by-birthplace data suggests that 60,000 Muslims were born in Eastern Europe. These groups are assumed to be largely Bosnian and Kosovar refugees. Moreover, 36,000 Muslims were born in North Africa, and 93,000 Muslims were born in the Middle East. It is thought that many of these would have been counted among the 'white' population and therefore for much of the 116,000 'Other white' Muslims. There were also 96,000 Black African Muslims in England and Wales, but only 7,500 Nigerian-born Muslims, and a further 11,000 from 'Other Central and West African countries'. It is suggested that a substantial part of the Black African Muslim population is of Somali origin.[28] While Pakistanis accounted for 43 per cent of British Muslims, only 13 per cent of the Indian population is Muslim. It confirms that around

[22] Lewis, P. (2002) Islamic Britain: Religion, Politics and Identity Among British Muslims, London: I.B. Tauris.

[23] Peach, C. (1997) 'Estimates of the 1991 Muslim Population of Great Britain', in: Oxford Plural Societies and Multicultural Cities Research Group Working Paper 1, Oxford University: School of Geography.

[24]   Anwar, M. (1993) Muslims in Britain: 1991 Census and Other Statistical Sources, University of Birmingham: Centre for the Study of Islam and Christian-Muslim Relations.

[25] Peach, C. (2006) 'Islam, Ethnicity and South Asian Religions in the London 2001 census', in: Transactions of the Institute of British Geographers, 31 (3): 353-70.

[26] Peach, C. (ed.) (1996) The Ethnic Minority Populations of Great Britain, Vol. II: Ethnicity in the 1991 Census, London: ONS and HMSO.

[27] Küçükcan, T. (2004) 'The Making of Turkish-Muslim Diaspora in Britain: Religious Collective Identity in a Multicultural Public Sphere', in: Journal of Muslim Minority Affairs, 24 (2): 243-58.

[28] Peach, C. (2006) 'Muslims in the 2001 Census of England and Wales: Gender and Economic Disadvantage', in: Ethnic and Racial Studies, 8 (4): 629-55.

half of the South Asian population, taken as a whole, is Muslim. Based on the 2001 census, two out of three of all South Asian Muslims are Pakistanis (750,000), with approximately three out of four Pakistanis of Azad Kashmiri origin (approximately 550,000). It can be estimated that almost one in three of all British Muslims are quite probably Azad Kashmiri in origin.

The ethnic composition of the Muslim population, as revealed by the 2001 Census, permits a calculation of its estimated growth. This estimate is achieved by applying the 2001 percentages of the different ethnic groups to the estimated ethnic composition of the population in the Census years 1951 to 1991. It is an approximate method since the ethnic diversity of the Muslim population of Britain has grown in the past decade due to the arrival of refugees and asylum-seekers from Afghanistan, Iran, Iraq, Somalia and former Yugoslavia. Nevertheless, the proportions originating from non-Asian or African sources should not distort the figures too greatly given the relatively small size of the ethnic minority population between 1951 and 1981. Based on this analysis, the Muslim population of the UK rose from about 21,000 in 1951 to 55,000 in 1961, a quarter of a million in 1971, almost 600,000 in 1981, 1 million in 1991, and 1.6 million in 2001. The rate of growth is high, while the population remains, on average, relatively young.[29]

It is true that British Pakistani communities have remained concentrated in the inner-city areas of older towns and cities in Britain. This is an indicator of how they have not benefited from the levels of social mobility enjoyed by other immigrant communities, past and present, but also of their inability to move out of areas facing high levels of social tension and economic deprivation, as well as direct discrimination, racial hostility and cultural exclusion.[30] The Islamic Human Rights Commission has extensively mapped the physical, racial and cultural discrimination and violence experienced by Muslims in Britain in all spheres of social life, including in relation to health, education and policing services, as well as attacks on Muslims by random members of majority society.

Birmingham, located at the centre of the West Midlands region, is a post-industrial city in which many of the challenges faced by Muslims across the country are typified. The experience of Birmingham Muslims brings into sharp focus the fact that economic opportunities have tended to bypass these communities, even when others have prospered. Where other cities with large Muslim populations, such as Bradford, are trapped in economic decline, the economic performance of Birmingham has been favourable. Despite the decline of its manufacturing and engineering sectors, the city is undergoing regeneration with considerable expansion in service (retail) and commercial sectors. These opportunities, however, have largely evaded most Muslims, and they may have even entrenched some of the barriers faced by this group. While most of the white British indigenous population has moved out of the inner cities through 'white flight', many South Asian Muslims have failed to move beyond the inner-city areas to which they originally migrated. These areas have become further disadvantaged, with new employment created elsewhere and in other economic sectors.[31]

In the city of Birmingham, home to 1 million people, Muslims accounted for 14.3 per cent of the population, with Pakistanis numbering just over 104,000 (74 per cent of all Muslims in the city) in 2001.[32] The number is twice as large as the highest concentration of Muslims outside of London.[33] In April 2001, 9 per cent of the 1.6 million Muslims in Britain and 16 per cent of the entire population of 658,000 Pakistanis in Britain were found to be in the city of Birmingham, arguably home to the largest expatriate Azad Kashmiri community in the world. Here, it is important to reflect on the fact that 'Pakistanis' do not comprise a single homogeneous religio-ethnic group: ethnically, they are Punjabis, Kashmiris, Pathans, Sindhis and Baluchis, who are all Pakistani. Religiously, these Pakistanis are Barelwi, Tabligh-i-Jamaati or Deobandi, subscribing to the Hanifi School, and politically aligned with various groups and organisations. Most Azad Kashmiris are Barelwi Hanifis. The independence of former East Pakistan (now Bangladesh) in the early 1970s, and the fact that the vast majority of Pakistanis in Britain are from the Azad Kashmir region, masks certain ethnic characteristics of people ordinarily identified as 'Pakistanis'. For instance, there is a considerable body of people who have originated from the North-West Frontier.

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[29] Peach, C. (2005) 'Britain's Muslim population: an overview', in T. Abbas (ed.), Muslim Britain: communities under pressure, London: Zed, pp. 18–30.

[30] Ameli, S. R., M. Elahi and A. Merali (2004) British Muslims' Expectations of the Government Social Discrimination: Across the Muslim Divide, London: IHRC.

[31] Owen, D. and M. Johnson (1996) 'Ethnic Minorities in the Midlands', in: P. Ratcliffe (ed.), Ethnicity in the 1991 Census, Vol. III: Social Geography and Ethnicity in Britain: Geographical Spread, Spatial Concentration and Internal Migration, London: HMSO, pp. 227-70.

[32] Birmingham City Council (2003) Population Census in Birmingham: Religious Group Profiles, Birmingham: BCC.

[33] Office for National Statistics (2008) Census 2001: Ethnicity and religion in England and Wales. Available at www.statistics.gov.uk/census2001/profiles/commentaries/ethnicity.asp. Accessed 12 July 2009.

In the movement of populations from Afghanistan to Pakistan, largely a result of the Soviet-Afghan war and more recent events since 9/11, ethnic identities such as Pushtun or Pathan are subsumed under that of Pakistani.[34] As much as there is a great deal of heterogeneity among Muslims in Britain, there is also considerable homogeneity, particularly in Birmingham with its large Pakistani, or, more specifically, Azad Kashmiri communities, where South Asian Muslims in Birmingham predominantly originate from the Mirpur district of Azad Kashmir and the surrounding areas, including Attock, Jhelum and Rawalpindi.

Post-war South Asian Muslim migrants and now communities have largely entered and settled in Britain as a workforce for the jobs indigenous Britons did not want to carry out then and now. At present, Pakistani and Azad Kashmiri groups continue to live near or at the bottom of local area economic and social lives, largely in the post-industrial cities to the North, Midlands and the South, all of which are at various stages of regeneration after the collapse of traditional economic sector activities. The fact that one in six working Pakistani men in Britain is a taxi driver is indicative for the labour exclusions faced.[35] Birmingham Pakistanis exhibit some of the highest rates of unemployment: up to three times as much as others in the city.[36] These Birmingham inner-city communities reveal that it is the Muslims (largely Pakistanis and Bangladeshis but also Africans and Arabs) who occupy the areas in the highest numbers and who are at the greatest disadvantage. In Birmingham, Muslims appear to have been neglected by the state and 'third way' public services.[37] At that time, the Local Authority and community groups helped to dismantle the ailing race relations and equality structures in the 1990s. The alternative was the utilisation of experimental partnership networks without adequate political and financial ownership or investment.[38] The most significant development to the city has been the need to shift from an industrial city renowned throughout the world for its engineering and manufacturing to a post-industrial global city of culture and commerce. The early phases of the recent developments have focused on re-establishing the economic strengths of the city in relation to the region, and the most expedient way to do this has been to concentrate on the global-corporate commercial retail service sector. In the coming years, there are plans to develop the arts, media and cultural sectors, but how this process will include or exclude ethnic and religious minorities remains to be tested. Until recently, any developments in local economic areas have focused on service-sector investment. The city's Pakistanis are often excluded from this experience of change and development because of structural subordination and existing conditions of exclusion, racism, poverty, other disadvantages, and limited political impact, which is perennially constrained by internal divisions and external challenges.[39]

The experience of British Pakistanis is informed by a complex mesh of ethnicity, migration, identity, culture and religion,[40] as well as the maintenance of strong transnational links to the sending regions. There are also various political and material factors involved in the different phases of immigration and the patterns of settlement resulting from this. There has been continuing growth in the Muslim population of Britain in the post-war period, and different factors have influenced the demographic profile of this group. The ethnic characteristics of British Muslims are predominantly those of Pakistani (in particular Azad Kashmiri), Bangladeshi and Indian Muslims living and working in older parts of established towns and cities in Britain, and this population is largely young. It is also, on average, relatively poor, badly housed, poorly educated, suffers high levels of male unemployment, and has a very low female-participation rate in the labour market. Survey accounts show it is also a 'religious population' that holds strong family values,[41] and marriage is a intra-ethnic-group phenomenon: 99

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[34] Mahmood, J. (2009) personal communication, 22 August.

[35] Office for National Statistics (2006) Employment Patterns: Pakistanis Most Likely to Be Self-Employed. Available at www.statistics.gov.uk/cci/nugget.asp? id=463. Accessed 12 July 2009.

[36] Anwar, M. (1996) British Pakistanis: Demographic, Social and Economic Position, University of Warwick: Centre for Research in Ethnic Relations.

[37] Shukra, K., L. Back, M. Keith and J. Solomos (2004) 'Black Politics and the Web of Joined-Up Governance: Compromise, Ethnic Minority Mobilisation and the Transitional Public Sphere', in: *Social Movement Studies*, 3 (1): 31-50; Smith, G. and S. Stephenson (2005) 'The Theory and Practice of Group Representation: Reflections on the Politics of Race Equality in Birmingham', in: *Public Administration*, 83 (2): 323-43.

[38] Abbas, T. and M. Anwar (2005) 'An Analysis of Race Equality Policy and Practice in the City of Birmingham, UK', in: *Local Government Studies*, 31 (1): 53-68.

[39] Back, L. and J. Solomos. (1992) 'Black politics and social change in Birmingham, UK: an analysis of recent trends', in: *Ethnic and Racial Studies*, 15 (2): 327-51.

[40] Ballard, R. (ed.) (1994) Desh Pardesh: The South Asian Presence in Britain, London: Hurst; Grillo, R. (2004) 'Islam and Transnationalism', in: *Journal of Ethnic and Migration Studies*, 30 (5): 861-78; Werbner, P. (2004) 'Theorising Complex Diasporas: Purity and Hybridity in the South Asian Public Sphere in Britain', in: *Journal of Ethnic and Migration Studies*, 30 (5): 895-911.

[41] Modood, T., R. Berthoud, J. Lakey and J. Nazroo (1997) Ethnic Minorities in Britain: Diversity and Disadvantage, London: Policy Studies Institute.

per cent of Bangladeshi women in 1991 were married to Bangladeshi men, and 95 per cent of Pakistani women to Pakistani men.[42] It is true that South Asian groups represent Muslims in Britain but there is a danger of essentialising the religion by suggesting that South Asian characteristics are fully representative of Islam itself. Pakistanis and Bangladeshis are almost entirely Muslim, but Islam is pan-ethnic, and there are Muslims in Britain of Arab, Albanian, Bosnian, Iranian, Nigerian, Somali, Turkish and many other origins, whose characteristics and socio-economic profiles are very different from those of the South Asians. There are also intra-group variations to consider; for example, there are huge differences between Sunni Barelwi Pakistanis and East African Ismailis, but they are South Asians by definition. What is true of Pakistani and Bangladeshi populations as a whole is not necessarily true of individuals and communities drawn from these populations.

Therefore, since immigration to Britain from the subcontinent began on a large scale during the 1950s and 1960s, the Pakistani population has often clustered together, residing in close proximity to one another, and around certain ethnicities. South Asian communities have taken steps to develop and recreate the traditional social and cultural structures and practices of the sending regions, many of which are rooted in religion.[43] This has led to large communities of Muslim origin living in specific areas, the largest of which is London.

Most of these groups live in the less affluent areas of London, including the poorest borough, Newham, in which 40 per cent of all London-based Muslims are found. This has a significant impact on the Muslim population as a whole, as the areas in which most young Muslims live are in run-down and deprived localities, and it will be difficult for subsequent generations of Muslims to break free from the socio-economic and cultural (internal and external) constraints that they face. Other areas that exhibit large pockets of Muslims include the West Midlands (10 per cent of Muslim population) and the North-West (13 per cent of Muslim population). These areas were part of the traditional manufacturing and textile industries that many came to work in after the Second World War. Their demise has left widespread unemployment in these areas. Growth in the communities of Muslims and other ethnic and religious populations in Britain has resulted in the increased importance of issues such as multiculturalism, integration and identity.

The changing demographic profile of British Muslims has been a major factor in determining the extent to which multiculturalism has become significant in both the political and public arena.

In sum, the Pakistani diaspora in Britain is influenced by a number of complex factors relating to migration, settlement, community development and the changing dynamics of the role of multicultural societies in the context of shifting discourses around difference. In the immediate period after the Second World War, Pakistanis were indeed subsumed under Indians. Because being a recognisable entity, and because of linkages with the war as well as the need to fill employment in declining industrial sectors, Pakistanis came to Britain and settled in the older parts of towns and cities.

Over the generations, the discourse has moved from one that focused on colour to that of race, ethnicity and now religion, particularly in the post-9/11 era. With inter-generational change giving rise to its own range of complexities, from the lack of social mobility of some to the increasing Islamisation of others, the Pakistani diasporic space remains an interesting field of inquiry. What this paper has done is to summarise some of the essential elements of this process in relation to the post-war experience, and also identify the issues that remain important currently for a community that has yet to achieve success and gain a positive perspective with regard to majority community relations.

In 2010, the Muslim population is estimated to be in the range of 2.4 million, with Pakistanis accounting for around 1 million. Although the numbers have increased, there remain huge problems in terms of racism, disadvantage, discrimination, alienation and Islamophobia in wider society. Pakistanis experience high rates of unemployment, high rates of underachievement in education, higher rates of imprisonment, poorer health and some of the worst housing. The socio-economic issues are significant while the challenges in relation to political and cultural identities are more acute than ever, especially given the dimensions of the 'war on terror' and how some second and third generation Pakistanis have become susceptible to extremism and victim to the manner in which wider media and political discourses paint a perennially negative picture in relation to this experience. While the demands are many, the opportunities are few and far between.

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[42] Peach, C. (1999) 'Social Geography', in: *Progress in Human Geography*, 23 (2): 282-8.
[43] Ballard, R. and V. Kalra (1994) The Ethnic Dimensions of the 1991 Census: A Preliminary Report, University of Manchester: Census Dissemination Unit.

Dr. Ralph Ghadban

Fiqh al-aqalliyyāt and its Place in Islamic Law

I. Introduction

Since at least the Iranian revolution of 1979, we have been witnessing an increasing Islamization of the law in the Islamic countries worldwide, where many of them have adopted the sharia as their constitution or as a main or exclusive source of legislation. In the West, Muslim communities have been making an intensive effort to introduce sharia norms into the legislation of their Western host countries. The revival of the sharia is an essential part of what the Islamists call the Islamic awaking, *al-ṣahwa al-islāmiyya*.[1]

II. The Migration

The Institute of Muslim Minorities Affairs estimated that one third of the Muslims in the world are living as minorities in non-Muslim countries.[2] The recent report of the Pew Research Center's Forum on Religion & Public Life on the size and distribution of the world's Muslim population finds that there are 1.57 billion Muslims living in the world today, representing 23% of an estimated world population of 6.8 billion in 2009.[3] The report used i.a. the best available data of 232 countries and territories and analyzed 1,500 sources to conclude the following result:

> *"While 80% of the world's Muslims live in countries where Muslims are in the majority, significant numbers – about one-fifth of the world's Muslim population – live as religious minorities in their home countries. Of the roughly 317 million Muslims living as minorities, about 240 million – about three-quarters – live in five countries: India (161 million), Ethiopia (28 million), China (22 million), Russia (16 million) and Tanzania (13 million)."*[4]

According to the report 28 million Muslims are living in Europe, about 8 million of them in the Balkans and Central Europe, 16 million in Russia and only 14 million in Western Europe.[5] Of the

approximately 4.6 million Muslims in the Americas, more than half, or about 2.5 million, live in the United States and about 700,000 in Canada.[6] In the Balkans and Eastern Europe where Muslims are indigenous, their populations are centuries old. In Western Europe and the Americas they are immigrants and children of immigrants. Their migration took place mainly in the second half of the 20th century. It began as the Europeans were in need of manpower after World War II and first turned to Southern Europe for the recruitment of workers. However, the increasing need of manpower forced the Western European countries to recruit workers from outside Europe. These new immigrants came from the colonies and were mostly Muslims from Pakistan, India, North and West Africa. The European countries without colonies turned to the Mediterranean region, to the entirely Muslim countries in North Africa as well as Turkey and Yugoslavia which was partly Christian.

In the years 1973-74 the need for manpower decreased and all European countries stopped the immigration and limited the free movement of labor. The unsecured foreign workers took advantage of the constitutional right of family reunion and started to bring in their families. By doing so, millions of Muslims gained access to Europe in the 1970s. In the 1980s and 1990s mainly Muslim refugees from Turkey, Iraq, Iran, Lebanon, Afghanistan, Bosnia, Kosovo and Albania found asylum in Western Europe. The number of Muslims in the European Union is today estimated at about 17 million. In less than three decades of legal migration after World War II the Europeans opened their countries to millions of foreign workers without possessing any migration policy. The government's policies assumed that the foreigners would – sooner or later – go back home and did not take into consideration the possibility of the migrants taking permanent residence in their countries.[7] That is why they undertook no measures to integrate them. Sweden is the only European country which decided in 1975 to be a country of immigration by officially adopting a multicultural policy.[8] In the rest

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[1] See for example al-Qaradawi, Yusuf: *Al-ṣahwa al-islāmiyya bayn al-juhūd wal-taṭarruf,* first edited in Cairo 1980. Nasr, Seyyed Vali Reza: Mawdudi and the Making of Islamic Revivalism, Oxford 1996. Haddad, Yvonne Yazbeck, Esposito, John L., Hiel, Elizabeth: The Islamic Revival since 1988. A Critical Survey and Bibliography, Westport 1991.

[2] http://www.imma.org.uk/jmma.htm.

[3] Mapping the Global Muslim Population. A Report on the Size and Distribution of the World's Muslim Population, Pew Research Center Washington D.C. October 2009, p. 1.

[4] Ibid., p. 7.

[5] Ibid., p. 22.

[6] Ibid., p. 24.

[7] Ghadban, Ralph: Reaktionen auf muslimische Zuwanderung in Europa, in: *Aus Politik und Zeitgeschichte. Beilage zur Wochenzeitung "Das Parlament"* B 26/2003 Bonn, pp. 26-32.

[8] Nielsen, Jørgen: Muslims in Western Europe, Edinburgh 2001, p. 82.

of Europe we can formally distinguish two kinds of policies: One is liberal and the other restrictive but both have led to similar negative results in the end. To the countries with a liberal policy belong Great Britain[9] and the Netherlands.[10] They realized a formal institutional integration of Muslims, but a social and political integration has not taken place. This allowed Muslims to build their own communities apart, sometimes under the leadership of Islamist and conservative organizations. In France and West Germany, which belong to the restrictive countries, an active policy of repatriation of the foreigners was initiated in the 1970s.[11] This policy of exclusion enforced the development of ghettos that in the 1980s fell under the influence of Islamist organizations which were not supported significantly until that time. The immigration countries USA and Canada pursue multicultural policies which permit institutional integration as well as social and political integration.[12] But like in the liberal European countries, the influence of the organizations connected to the Islamic countries of origin has been decisive in the elaboration of an Islamic identity.

> *"Many minority Muslim communities have gained greater visibility through the financial support of Muslims abroad, particularly from those in the Gulf states. Such assistance reached its zenith in the 1980s when Muslims in non-Muslim countries were able not only to construct very visible mosques, Islamic centers, and private schools, but to acquire trained leadership from overseas."*[13]

In 1975, even the indigenous Muslims of the Nation of Islam in the USA converted to Sunni Islam introduced by the Muslim immigrants who arrived after the liberalization of the US immigration policy in 1965. They were consequently affected by the religious awakening of the late 20th century.[14]

III. The Islamic way of life

After the Iranian revolution of 1979 Islam became victorious and more fascinating for young Muslims.

The Islamic identity which was preached by the Islamist organizations was now accepted by a wide audience. With a background of general disintegration, the second and third generation of Muslims found a cultural home and a valorizing identity with the Islamists that compensated for their low social status and their cultural discrimination. It explains the success of the Islamists when they preach that the European and Western societies are decadent and amoral while, on the other side, the Muslims are mentioned in the Qur'an as the best community (*umma*) God has ever created and their duty is to bring morality to mankind.[15]

The Islamists were able to propagate an Islamic identity tied to a value system that is not only different from the dominating value system in Western societies, but one that should be an alternative to it in the long term.[16] The value system the Islamists created is, according to them, the "Islamic way of life"[17] or with other words to live according to the sharia.

The construction of the Islamic value system was first undertaken by the Islamist organizations which in their countries of origin had the required scholar boards of *iftā'* to tell their supporters what was allowed and what was forbidden. But at the beginning as the sphere of influence of the organizations was limited, many private persons who had some knowledge of the religion also assumed this role. One can imagine the disparity that resulted from this practice. Soon *fiqh* councils were founded to unify the jurisprudence and they continued the tradition of *fiqh al-nawāzil*. But it was not enough to respond to the needs of the Muslims in the West. In the 1990s, the president of the *fiqh* council of North America, Taha Jaber al-'Alwani, proposed to develop a *fiqh* for the Muslims as a minority in non-Muslim states, the so-called *fiqh al-aqalliyyāt.* He explained that the old *fiqh* was not able to help to found a *fiqh* for minorities in modern times; one can only take notice of it without following it.[18] What is needed is: *"to go back to the revelation and the first Islamic experience."* So we will go back to see how

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9   See Kepel, Gilles: Allah im Westen. Die Demokratie und die islamische Herausforderung, München 1996, pp. 143 ff.

10 Shadid, Wasif, van Koningsveld, Sjoerd: Les musulmans aux Pays-Bas, in: Ismail, Adel (ed.): L'islam et les musulmans dans le monde. Tome I-L'europe occidentale, Beyrouth 1993, p. 309 ff.

11 Bentahar, Mekki: Les arabes en France, Rabat 1979, p. 232 ff. Bischoff, Detlef, Teubner, Werner, Zwischen Einbürgerung und Rückkehr, Berlin 1991, p. 52 ff.

12 See Nimr, Mohammad: Muslims in American Public Life, in: Haddad, Yvonne Yazbeck (ed.): Muslims in the West. From Sojourners to Citizens, Oxford University Press 2002, pp.169-186, and Karim, Karim H.: Crescent Dawn in the Great White North. Muslim Participation in the Canadian Public Sphere, ibid., pp. 262-277.

13 Haddad, Yvonne Yazbek, Smith, Jane I. (eds.): Muslim Minorities in the West. Visible and Invisible, Altamira Press 2002, p. xv

14 Curtis IV, Edward E.: Muslims in America. A Short History. Oxford University Press 2009, pp. 72 ff.

15 Qur'an 3:110.

16 See for example Hofmann, Murad Wilfried: Der Islam als Alternative, München 1992.

17 See Mawdudi, Sayyid Abul A'la: *Islam ka nizam hayat*, Lahore 1948, translated by the Islamic Foundation: The Islamic Way of Life, Leicestershire 1986.

18 Al-'Alwani, Taha Jaber: *Naẓarāt ta'sīsiyya fi fiqh al-aqalliyyāt*. http://www.islamonline.net/. 11th February 2001. An extended version under the title: "*Madkhal ila fiqh al-aqalliyāt*" was published in: *al-majalla al-'ilmiyya lil-majlis al-europi lil-iftā' wal-buhūth*, No. 4/5 June 2004, Dublin, pp. 19-92.

this new kind of *fiqh* has to be classified in the history of Islamic law, and at the same time to find out if we are dealing with an Islamization of the world or a modernization of Islam.

IV. The early Islamization of the law

It is generally admitted that the sharia as a legal system did not exist during the greater part of the first century of Islam.[19] The Islamization of the law started in the last decade of the century[20] and the literary period of Islamic law began around the middle of the second century of the *hijra*.[21] As the Muslims after Muhammad's death raised an empire from France to China they adopted the local rules and customary law of the conquered countries. The only undertaking during the first century that dealt with law was to put down the Qur'an in writing. But the number of normative verses in the Qur'an is very limited. According to Coulson there are about 600 but they are predominantly concerned with religious duties and ritual practices and only 80 of them can be considered as positive laws concerning punishment, heritage and family.[22]

In the Qur'an one aim is the teaching of men how to act to enter paradise after life. That is why Muhammad had little interest to change the existing customary law. He established moral norms which allowed or prohibited an act, but did not invalidate the transactions in everyday life.

Some punishments were mentioned but the reckoning was left mostly to Judgment Day. Only in fields attached to his effort to replace the old tribal organization with the new community of believers, the Qur'an provides more legislation of which the greater part is concerned with marital status, i.e. marriage, divorce, family relationship and inheritance, and the rest with the law of retaliation and the law of war.[23] The Islamic tradition teaches us that the third caliph Osman (644-656) built a commission to unify the Qur'anic text. After the commission had finished its work Osman ordered the destruction of all other Qur'ans in circulation and declared his Qur'an as the official one. This established story may be fictitious, but the unification of the Qur'anic text is a fact though it did

not occur under Osman in the year 656 but later, maybe under the caliph 'Abdel Malik bin Merwan (685-705) who realized the Arabization of the state administration and the coinage system; built the Dom of the Rock in Jerusalem and reformed the Qur'an writing.[24] Until the time of his reign the Muslims used the Byzantine coinage and the administrative languages of the conquered countries. This may explain why the group of *fuqahā'*, i.e. the Islamic scholars who understand and interpret the Qur'an, appeared only after this event and since 715-720 have supplied the office of *qāḍī*.[25] The Umayyad, who had created the position of the Islamic judge beforehand, used to designate people who in general had political influence.[26] They administrated justice without taking the Qur'an into consideration too much. At the end of the Umayyad domination the intellectual climate changed and lawyers were concerned with knowing whether or not the customary law conformed to the Qur'anic and general Islamic norms.[27] This marks the beginning of the Islamization.

At the end of the Umayyad period the caliph who retained all power began to lose his prerogative of legislation to the *fuqahā'* who were the specialists in religious matters. The practice of the governors no longer constituted the source of law, but the interpretations of the *fuqahā'* of the religious sources decided over the application of justice. The law sources that were under the disposition of the *fuqaha* were much reduced and consisted of what Joseph Schacht called the "living tradition."[28] It was a mixture of administrative rules of the governors, some traditions from the prophet, the practices of his companions after his death and their followers which reflect the practice of the community and was basically impregnated from customary law. The living tradition relied widely on free reasoning, *ijtihād al-ra'y,* for the developing of its rules which practically means that the persons in charge acted as legislators. Even later when under the Abbasids Islam was adopted as "state ideology", the free reasoning prevailed in the Islamization of customary law through elaboration of a set of categories which allowed some systematization and which created a legal system which finally became to be called Islamic law.[29] These categories were all

19 Schacht, Joseph: An Introduction to Islamic Law. Oxford 1982, p. 19.
20 Hallaq, Wael B.: The Origins and the Evolution of Islamic Law, Cambridge University Press 2005, p. 44.
21 Schacht, ibid., p. 40. Maḥmūd Abu Rayya: 'Aḍwā' 'ala al-sunna al-muḥammadiyya, Cairo 1994, p. 234 ff.
22 Coulson, Noel James: An Introduction to Islamic Law, Edinburgh 1964, p. 12.
23 Schacht, ibid., pp. 10 ff.
24 Since John Wansbrough's book "Quranic Studies. Sources and Methods of Scriptural Interpretation" (London 1977) several researches dated the redaction of the Qur'an to this time or later.
25 Schacht, ibid., p. 26.
26 Johansen, Baber: Contingency in a Sacred Law. Legal and Ethical Norms in the Muslim Fiqh, Leiden 1999, p. 26. Hallaq called them "proto-*qadis*", Origins, p. 34.
27 Schacht, ibid., p. 26. Hallaq, ibid., p. 42.
28 Schacht, ibid., p. 29.
29 See Tyan, Emile: Institutions du droit public musulman Tome I: Le Califat, p. 435-436: "A l'état sous-jacent se développe et évolue une législation coutumière qui est progressivement absorbée par le droit formel et incorporée à lui par les procédés techniques du hadith ou sunna, du *igma'*, du *kiyas*."

secular: *Istiḥsān* means approval and is a discretionary opinion. *Istiḥlāh* means taking the public interest into account. *Istiṣhāb* means presumption of continuity. *'Āda* and *'urf* mean custom. They are the parts of customary law that had not and could not been classified under other categories. *'Amal* means the practice of the community of Medina. Maliki and Hanbali schools introduced the category of *sad al-dharā'i'*, blocking the means to avoid the use of subterfuge, *ḥiyal.*

It was insupportable for the pious Muslims to see how human beings were usurping the right of God by legislating. That is why they insisted on the tradition of the prophet who was the only legitimate person to explain the law of God. But the tradition of the prophet was almost nonexistent, they began to create it.

The tradition of the prophet called *sunna,* which is the second source of Muslim belief, is most likely a forgery and was created by Muslims living mainly in the second century of Islam.[30] In a sense it is a human legislation like the first one but based on presumptions and not reason. At the end of the second century the supporters of the *sunna,* the traditionalists or *ahl al-ḥadīth,* won the struggle against the supporters of reason, *ahl al-ra'y*, and gave the Islamic law a new fundament, i.e. the science of the roots of the jurisprudence, *uṣūl al-fiqh,* that has remained until today.

The Qur'an was established as the first source, followed by the tradition of the prophet that replaced the living tradition. At the third position stands the consensus of the scholars that compensates for the lack of material in the first two sources. In a sense it works like a legislative body without being recognized as one. At the fourth and last position we have the free reasoning tamed and transformed in reasoning per analogy, *al-qiyās,* which means the comparison of a subject matter with a similar old one in order to extract a judgment. At the beginning of the third century, Islamization was accomplished and all aspects of life were tied in the narrow corset of the sharia.

The whole existence was now wrapped up in an ethical grid where the doing of human beings is classified as (1) obligatory, *farḍ;* (2) recommended, *mandūb* or *mustaḥab;* (3). indifferent, *mubāḥ; (*4) reprehensible, *makrūh;* (5) forbidden, *ḥarām.*

The opposite of *ḥarām* is *ḥalāl* which means permitted, it is everything that is not forbidden, but does not concern contracts. These are submitted to the legal classification (1) valid, *ṣaḥīḥ;* (2) reprehensible, *makrūh;* (3) defective, *fāsid; (*4) invalid, *bāṭil.*

Though both spheres were distinct from each other, the formal legal concepts of valid and invalid were continually pushed into the background by the religious ethical concepts of allowed and forbidden.[31]

V. The classical Islamic law

The sharia was in fact not able to embrace all the diversity of life. That is why the *fuqahā'* created new secular devices and integrated them into their law system. The first is the category of *ta'zir* which means to judge in penal matters without sharia references because they do not exist. The second category is *shurūṭ* and concerns the contracts which are not violating any formal legal text.[32] More serious was the creation of the category of *ḥiyal,* i.e. subterfuges that is not trying to cover a lack of legislation but to circumvent existing rules in the Qur'an especially the prohibition of usury and the consequences of the irrevocable divorce. A look into volume III of the work of Ibn Qayyim al-Jawziyya (d. 1350/751), *i'lām al-muwaqqi'īn 'an rabb al-'ālamīn,* written in the 7th century of Islam, shows how widespread this practice was.

However, the most important legal development was the emergence of a parallel secular law system justified by the practical demand for governance. It was called *siyāsa shar'iyya.*[33] The caliphs who lost the power of religious legislation kept the right to enact administrative regulations and very early in their sphere of legislation they introduced legal fields that rather belong to the religious sphere. The first field was the "investigation of complaints," *naẓar fil-maẓālim,*[34] against decisions of the *qāḍī* and abuse of power by government officials and powerful individuals. Courts of complaints were set up very soon which too dealt with land property matters of the state, *iqtā'.* The second field was the police, *shurṭa,*[35] which combined the preventive and repressive functions of a police and security force with the judicial functions of a magistracy and summary court. Its radius was extended every time the chief of police was powerful enough to trespass the

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30   Schacht, ibid., p. 34.
31   Schacht, ibid., pp. 121, 203.
32   Chehata, Chafik: Droit musulman. Application au proche-orient, Paris 1970, p. 8.
33   Coulson, ibid., p. 129.
34   See art. *"Maẓālim"*, in: Encyclopaedia of Islam, Second Edition (EI²), Edited by: P. Bearman, Th. Bianquis, C. E. Bosworth, E. van Donzel and W. P. Heinrichs. Brill 2009. Brill Online.
35   Coulson, ibid., p. 50. EI, art.*"Shurṭa".*

jurisdiction of the *qāḍī* and the *muḥtasib.* The inspector of the market, *ṣāḥib al-suq,*[36] represents the third legal field which did not conform to the sharia but to older pre-Islamic rules that had persisted. Under al-Ma'mūn (813-833) the office was islamized and renamed to *al-muḥtasib* with additional Islamic moral duties such as preventing forbidden contacts between the genders and guarding the visible distinction between Muslims and non-Muslims. The most important secular field that had completely broken with the sharia belonged to the office of the *ḥājib.* The *ḥājib,*[37] the chamberlain, had played different roles in Islamic history but it was not until under the Mamluk dynasty that he gained a significant judicial office. He had to administrate justice including lawsuits regarding fiefs among members of the Mamluk military class, in accordance with the laws of the Mongol, *Yasa.*

As the elaboration of the sharia framework was completed in the 10th century it had not been unified but divided into many law schools. The applied part of the school's doctrine consisted in the extraction of the legal judgments, *istinbāṭ al-aḥkām,* from the roots, *uṣūl,* which deliver the proof or indication, *dalīl,* for the solution of a subject matter. These solutions were thematically selected according to branches, *furūʿ,* called books, such as the books of purity, marriage, war, sell, prayer; and these books were assembled into works like the *musnad* of ibn Hanbal that were the canonized version of the law and became the reference for the legal profession. From similar solutions several rules were extracted to built general rules, *qawāʿid kulliyya* or *kulliyyāt*. Although the law schools officially allowed only imitation, *taqlīd,* the official doctrine to some extend was open and receptive of new developments.

The school's doctrine included on the first and second level the works of the founding masters that are most reliable, *ẓāhir al-riwāya* and *masāʾil al-nawādir.*[38] Both enjoy the highest level of doctrinal authority. On the third level we find the *wāqiʿāt,* the events they are also called *nawāzil,* unexpected events that are new and require a solution from the Mufti*.* The new *fatwas* of *nawāzil* which were relevant to contemporary needs, *mā taʿummu bihi al-balwa,* were abstracted and summarized, *tajrīd* and *talkhīṣ,* and subsequently won the acceptance of scholars, *tarjīḥ,* and their consensus, *tashhīr,* and finally were introduced

into the *furūʿ,* branches, and became part of the doctrine. If they lost their relevance later on, they would be excluded.

The *nawāzil* never attained the level of the roots, *uṣūl,* and the general rules, *kulliyyāt,* to become a constitutional part of the *fiqh*. In this marginalized field of *fiqh* resides the origin of modern *fiqh al-nawāzil,* respectively of *fiqh al-aqalliyyāt,* that is supposed to modernize Islam. In the "millennium of stagnation" that followed the 10th century, *fiqh al-nawāzil* kept the sharia fairly alive despite its marginality. This achievement was made possible because of the above mentioned parallel system of secular laws which increasingly embraced fields of regulations of life concerning politics, justice, military and economy.

VI. The secularization

The decadence of the caliphate began under al-Muʿtaṣim (217-226/833-842) but the transformation of the nature of this institution took place one hundred years later when in the year 324/935 the caliph al-Rāḍī (322-329/934-940) legally transferred the prerogatives of his government to ʾamīr al-ʾumarāʿ.[39] After the arrival of the Seljuk in Baghdad in 447/1055 the office was called sultanate. Thereby the caliph lost the secular dimension of his authority while keeping the religious and sacred dimensions of his office. Although the sultans destituted and killed many caliphs they did not suppress the caliphate because it was legitimizing all power including their own.[40]

In the period following the Mongol invasions in the 13th century, the concept of independent state law was greatly strengthened. The Ottomans, who are believed to have united the offices of caliph and sultan in one person, promulgated the first *qanun-name* under Mehmet II (854-885/1451-1481), which was completely independent from the sharia, and a century later a more comprehensive one that trespassed the domain of the sharia by forcing the *qāḍī* to follow the sultan's directives in sharia matters.[41]

It meant that the caliph's influence on legislation increased. Sharia punishments of *ḥudūd* were replaced by punishments that for example permitted the payment of a fine, *badal al-siyāsa.* The *qanun* also involved property, administrative and financial laws.

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36 Schacht, ibid., p. 51-52. EI, art. *"Ḥisba".*
37 EI, art. *"Ḥādjib".*
38 See Hallaq, Wael B.: From *Fatwas* to *Furuʿ*: Growth and Change in Islamic Substantive Law, in: *Islamic Law and Society*, 1994 1,1 pp. 29-65.
39 Tyan, ibid., pp. 531, 537 ff.
40 Ibid., pp. 453 ff.
41 Schacht, ibid., p. 90.

VII. The modernization with the law

In the 19th century the Ottomans reformed their system with the so called *tanzimat*.[42] It was not difficult to introduce European law in the secular field of the *qanun-name.* The French penal code was introduced in 1840, the code of commerce that permitted usury was introduced in 1850, the maritime code in 1863, etc. In the proper field of the sharia and for the first time the Islamic jurisprudence, which was jurist's law, was transformed into a positive law system with the *majalla*. The *majallat al-aḥkām al-ʿadliyya* (1869-1876) is the first Islamic civil code.

The reformers simply took the 99 general rules, *kulliyāt*, of the *hanafi* doctrine and transformed them into positive laws.[43] New secular tribunals were created from 1860 onwards and the activities of the sharia tribunals were reduced to family law. In 1926, Turkey abolished the sharia courts and completely adopted secularism. In the Arab countries the tradition of the *tanzimat* was continued though with a changed attitude. Al-Sanhuri who worked out the civil code of Egypt (1948) asserted that the foreign rules incorporated in his code were compliant with the sharia doctrine. Coulson comments:

> *"(…) it might not be too fanciful to see here the embryonic beginnings of a process of the Islamicisation of foreign elements such as had taken place in the first two centuries of Islam."[44]*

VIII. The modernization with the sharia

The modernization of Islamic law basically consisted of the transformation of the *fiqh* into a positive law with the implementation of Western values. The Islamist movements and especially the Muslim Brotherhood, which are a reaction to this kind of modernization, claim to reestablish the old sharia. But in fact the programs show their intent to islamize the legal system that had been developed over the last 150 years. It is an Islamization in the same manner as the Islamization of the living tradition in the 7th century. Hassan al-Banna said in 1939 at the 5th conference of the movement:

> *"The Muslim brothers believe that under the government systems existing in the world*

the constitutional one corresponds most to Islam and they will not change it."[45]

They intend to keep the democratic constitutional system as an efficient control system and to replace the obscure general assertion that "Islam is the state religion" which already exists in the Egyptian constitution through the explicit concept of the "sharia." When this happens they will be able to purify the secular law from Western values. Al-Banna said:

> *"The Muslim Brothers endeavor to clarify the obscure texts in the constitution and to change its application in the country."[46]*

IX. Yusuf al-Qaradawi

In the West Muslims should not integrate, they should build their own society ruled according to the sharia as far as possible and try to change the secular law in the direction of the sharia, says Yusuf al-Qaradawi. The Islamic way of life is submitted to the branches, *furūʿ,* and is part of *fiqh al-nawāzil.* It remained a *fiqh* of exceptions but had to be systematized. Al-Qaradawi drew up four principles to organize this *fiqh*:[47] The first principle is easiness, *taysīr,* and means to adapt the *fatwas* to the circumstances of the West where Muslims are not powerful. The second principle is the mission, *fiqh al-daʿwa,* and implies that the *fatwas* should not provoke hostility against Islam. The third principle prescribes that the drawing of the *fatwa* should take into consideration the interest of Muslims as a group and not as individuals. And the last principle addresses all law schools by inviting them to draw up *fatwas* instead of following only one of them.

These principles have a temporally character and allow behaviors which do not conform to the sharia and which cannot be accepted in the Muslim world. It is in fact an opportunistic attitude to islamize the West. If a Western woman for instance converts to Islam she may stay with her non-Muslim husband hoping to convert him; while in Muslim countries she must still divorce her husband.[48]

X. Taha Jaber al-ʿAlwani

Another Islamization strategy constitutes the *fiqh* of minorities, *fiqh al-aqalliyyāt,* founded by Taha

42 See i.a. Polk, William R. and Chambers, Richard L.: Beginnings of Modernization in the Middle East. The Nineteenth Century, Chicago 1968.
43 al-Ṣāleḥ, Ṣubḥī: *Maʿālim al-sharīʿa al-islāmiyya*, Beirut 1975, p. 74.
44 Coulson, ibid., p. 153. About the ambiguity of Sanhuri's position see Shalakany, Amr: Between Identity and Redistribution: Sanhuri Genealogy, and the Will to Islamise, in: *Islamic Law and Society* 8, 2 (2001), pp. 201-244.
45 *Majmūʿat rasāʾil al-imām al-shahīd Ḥassan al-Bannā*, Cairo 1992, p. 138.
46 Ibid., p. 139.
47 al-Najjār, ʿAbd al-Majīd: *Manhaj al-Imām al-Qaradāwī fi fiqh al-Aqalliyyāt*, Doha 2007, pp. 5 ff.
48 See the Fatwa in: *al-majalla al-ʿilmiyya lil-majlis al-awrubi lil-iftāʾ wal-buhūth*, No. 2 January 2003, Dublin, pp. 421 ff.

Jaber al-ʿAlwani in 1994.[49] He proposes the creation of a new *fiqh* that will be liberated from the classical *fiqh* and not submitted to its branches, *furūʿ,* but bound to the sharia as a whole in its belief and practical dimensions, i.e. bound to the faith doctrine, *al-fiqh al-akbar,* and taking into consideration the special situation of the Muslims as a minority group.[50] In contrast, the Qurʾan is considered as the fundamental source and the *Sunna* as a historical interpretation which can inspire but not prescribe modern behavior. He speaks about re-reading the Koran with a contemporary methodological awareness that makes it the only source of all knowledge especially for social sciences.[51] This reading should be holistic. He writes:

> *"Using the Qurʾan to reflect on reality and improve it requires comprehensive under-standing of the Qurʾan and the real world together."*

This should replace the prevailing "static view of the universe and a fragmentary treatment of the Qurʾanic text."[52]

Despite its universal claim, *fiqh al-aqalliyyāt* remains a separate *fiqh* valid only for Muslim minorities in non-Muslim countries and corresponds to the position of al-Qaradawi. According to al-ʿAlwani, the establishment of this *fiqh* is possible because the division of the world between 'House of Islam' (*dār al-Islām*) and 'House of War' (*dār al-ḥarb*) has become obsolete. Today we have an international law, Muslims are immigrating into the West where they become citizens and can freely practice their faith. In this globalized world Muslims should replace the *fiqh* of war with the *fiqh* of coexistence, and non-Muslims should not be considered as enemies anymore, except for when they attack Muslims.[53] The traditional *fiqh* concentrated on the 'House of Islam' and refused the settlement of Muslims in the 'House of War'. It ignored the universal character of Islam which is that Muslims have to go out into the world and propagate their faith. The *daʿwa,* Islamic mission, offers the justification for the presence in the West. That is why this presence should be prepared and planed for a permanent settlement and immigrants

should participate in all aspects of life. Only by doing so, they have a chance to change the laws in their host countries according to Islam.[54] By re-reading the Qurʾan al-ʿAlwani trespassed his methodological concerns and unintentionally reached theology. He namely intended to find out the real means of the Qurʾan apart from the literacy in order to find contemporary relations and was unwillingly forced to reinterpret the Qurʾanic text. So he speaks about free, "*tafsīr bi al-raʾī*" instead of traditional hermeneutic, "*tafsīr bi al-maʾthūr*",[55] and what he calls methodological approach is finally a theological one. The approach of al-ʿAlwani represents the most progressive approach in the field of modernization of Islam with the *fiqh*. At the same time it demonstrates the limits of this legal attempt because if well conducted it leads to a point where a change from the *fiqh* sphere to the theological sphere will be ineluctable.

XI. Tariq Ramadan

Tariq Ramadan is definitively against theology. He declares: "There is no Islamic theology." The Islamic creed, *ʿaqīda,* is clear and unequivocal, the concept of *tawḥīd* expresses the fact of the absolute oneness of God and this fact does not need any theology. God "offered his names to human intelligence to direct it toward the knowledge of Him but never toward the definition of Him."[56] That is why Ramadan is against free reasoning too and considers that "the most deficiency in a free and responsible being" is to "think that one's intellect alone can know and read the universe".[57] In his vision based on faith the only valid reasoning is the *ijtihād* in its classical form of extraction of judgments, *istinbāṭ,* which implies an analogical reasoning and not a deductive one. In failure of theology Ramadan falls back on the *fiqh* and concentrates on the improvement of its methodology to conform it to modernity. Like al-Qaradawi he takes as a starting point the root principle of public interest as defined by al-Ghazali, which includes the protection of religion, life, intellect, lineage and property of the Muslims. And like al-Qaradawi he speaks of a religious mission, *fiqh al-daʿwa.* Other than al-Qaradawi and al-ʿAlwani who distinguish between two *fiqh,* one for the West and one for the Islamic countries,

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[49] Fishmann, Shammai: *Fiqh al-Aqalliyyat*: A Legal theory for Muslim Minorities, in: *Research Monographs on the Muslim World*, Series No. 1, Paper No. 2 October 2006. Hudson Institute Washington, p. 1.

[50] Al-ʿAlwani, *Madkhal,* pp. 48-49.

[51] Al-ʿAlwani, Taha Jaber: The Qurʾan: The Primary Source of Knowledge, in: Al-ʿAlwani and ʿImad al Din Khalil: The Qurʾan and The Sunnah: The Time-Space Factor, London 1991, pp. 14, 15, 21.

[52] Al-ʿAlwani, Taha Jaber: Missing Dimensions in Contemporary Islamic Movements, London 1996, pp. 14-15.

[53] Al-ʿAlwani, *Madkhal,* pp. 57-58.

[54] bid., pp. 90-91.

[55] Al-ʿAlwani: The Qurʾan and the Sunna, p. 16.

[56] Ramadan, Tariq: Western Muslims and the Future of Islam, Oxford 2004, p. 13.

[57] Ibid., p. 18

Ramadan refuses the concept of the *fiqh* of minorities bound to this dualism and speaks about a unified *fiqh* for all people in the world. Muslims are a minority in the West but a majority with their universal values which constitute the sharia. And the universality of Islam is characterized by its capability to integrate all societies. That is why he calls for an intellectual revolution that allows the Muslims to be aware of this dimension of their religion. He writes:

> "The way of faithfulness, the path to the spring, the sharia, teaches us to integrate everything that is not against an established principle and to consider it as our own. That is, after all, the true universality of Islam."[58]

Following this approach most things are already Islamic, and Muslims in the West are already at home and do not need to be integrated. In the rare cases of discordance, a legal adaptation through *ijtihād* and *fatwa* is possible.

> "These legal instruments must not be used only in the perilous area at the limits but must also find their place in a global vision that integrates and makes the west into an acquired territory, a land for Muslims."[59]

What Ramadan is proposing is not the peaceful conquest of the West through the Muslim world as conceptualized by al-Qaradawi and al-ʿAlwani, but the integration of the West into the world of Islam. In both cases they are operating with the *fiqh* and in both cases the question of integrating Muslims into the West is superfluous.

This change of attitude toward the West is the major achievement of Ramadan; in all other points he is borrowing from others without making relevant personal contributions. Almost all his concepts originated from al-ʿAlwani, al-Qaradawi and Faisal al-Mawlawi.[60]

That is why Islamic scholars do not consider him as belonging to them. They look at him primarily as a preacher, *dāʿiya*.[61] Many in the West are sharing this view. Others see Ramadan as a big renovator, which is due mainly to the semantic shifting that Ramadan masters. He is using Western and Christian language to transport old Muslim, oriental contents. So in the last years he decided to change his denomination of the West as a 'House of Mission', *dār al-daʿwa,* in favor of the Christian concept of testimony. He is now using the denomination 'House of Testimony', *dār al-shahāda.*

However, a new Islamist ecumenism is emerging under the leadership of Saudi Arabia. In 1988, al-ʿAlwani founded the Fiqh Council of North America, and in 1997 participated in the founding of the European Council for Fatwa and Research, headed by al-Qaradawi from Qatar. These two councils, and the Islamic Fiqh Academy in India, are connected to the Organization of the Islamic Conference through the International Fiqh Academy based in Jeddah. From the beginning of the project, al-ʿAlwani has been supported by King Fahd of Saudi Arabia.[62]

XII. Conclusion

The Islamic law approach in its different appearances is an Islamist approach that negates Islamic history. From the beginning the secular tradition in Islamic culture was huge; the dichotomy of *sharia* and *siyāsa,* of Islamic law and governance, developed in history in favor of governance and in modern times has enabled a substantial modernization of Muslim societies. Islamists are now also working with great success to annihilate the tradition of modernization of the last 150 years. In the West Islamic law does not intend to integrate Muslims into their host countries but intends to elaborate a value system based on the sharia that helps them to preserve and strengthen their communities.

In Europe, this has resulted in a value system of parallel societies which are a big field for social conflicts. The Islamic way of life that they reclaim is as legitimate as the Christian if it recognizes the rights of humans. Until now, none of all these *fiqh* approaches has ever accepted these rights outside the framework of the sharia.

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[58] Ibid., p. 54.
[59] Ibid.
[60] See for example Fishmann, Shammai: Some Notes on Arabic Terminology as a Link between Tariq Ramadan and Sheikh Dr. Taha Jabir al-Alwani, Founder of the Doctrine of "Muslim Minority Jurisprudence" (*Fiqh al-Aqaliyyat al-Muslimah*), available at: http://www.e-prism.org, accessed March 22, 2010. For the concept of *daʿwa* see Maulawi, Faisal: *Al-usus al-sharʿiyya lil-ʿilāqa bayna al-muslimīn wa ghayr al-muslimīn*, UOIF, Paris 1987.
[61] Ghadban, Ralph: Tariq Ramadan und die Islamisierung Europas, Berlin 2006, pp. 41 ff.
[62] Fishman, ibid., p. 3.

Thomas Schmidinger

Yemen:
State Failure by Regime Support?

I. Introduction

This article considers the causes of conflict in Yemen and poses the following question: can the western states' strategy of providing financial, logistic and military support to the government under President Ali Abdullah Saleh contribute to stabilizing the country, or could it weaken the Yemenite state instead?

In matters of international security, the USA and other western states have been focusing their attention on Yemen since autumn 2009. At a London conference in late January, twenty-one foreign ministers of industrialized western states debated the matter of providing aid to President Ali Abdullah Saleh and his government.

II. Autocratic Regime

Yemen is currently confronted with multiple conflicts. Ever since December 25th, 2009 – the day of Umar Farouk Abdulmutallab's attempted terrorist attack on board of a U.S. flight – Al-Qaida's increased presence on the Arabian Peninsula (*al-Qa'ida fi-Jazeera al-'Arab*) has been causing greater concern worldwide than the Houthi rebel conflicts in the Sa'dah Governorate. Potentially separatist conflicts in former South Yemen are receiving much less attention than the question of whether Yemen is turning into a training camp for international terrorists.

Though these conflicts each stem from distinct causes, they all have one thing in common: the political environment in which they occur – a weak, yet increasingly authoritarian state. This 'weakness,' however, is nothing new. It has always been the case for tribes in Yemen to have greater access to military resources than the state army, and tribal politics traditionally play an important role both locally and nationally (cf. Swagman 1988). Rather than existing alongside or in opposition to the Yemenite state, tribalism permeates it on various levels.

In the Arab world, Yemen is one of the few countries with a multiple-party system. After the 1994 civil war waged against Yemen Socialist Party members from the south of the country, President Saleh dispensed with coalition partners and gradually began repressing the opposition. As is the case in Syria, Libya and Egypt, political

dynasties within the presidential families are the norm. Saleh's son, Ahmed Ali Abdullah Saleh, commands the Republican Guards as well as a special anti-terrorist unit. For the past few years, the media has been setting him up as the legitimate presidential successor. Foreign critics of this advancing despotism are silenced with the argument of how important Yemen is to the region's "stability." Any form of armed opposition is denounced as being "terroristic."

The expansion of governmental authority correlates to a growing marginalization of peripheral regions in the north and south of the country. The failing of economic and sociopolitical state resources has been absorbed not only by tribal structures, but also by various organizations of political Islam, including Wahhabi and Salafi groups.

The influence of these groups has been growing since the 1990s, and is helping to shape Yemen's emerging economy. The IMF-decreed "structural adjustment" increased the influence of Islamic banks. Social and cultural anthropologist Paul Dresch, University of Oxford, writes:

> *"To generate a more active financial system, central government withdrew state accounts from commercial banks, raised bas interest rates, and allowed commercial banks to set their own rates. Money-changers were again cracked down on. The smaller operators were ruined; the larger, who combined exchange with commerce, so dominated the market, however, that their withdrawals threatened to leave commercial banks insolvent, and among these largescale investors and speculators were those who now committed capital to Islamic banks."* (Dresch, 2000: 200f)

After the unification of Yemen in 1990, the new regime began to persecute the provinces of former South Yemen, whose widespread secularism conflicted with the current conservative/religious politics. Yet also parts of the Zaidis, who had been ruling North Yemen until the Imamate was overthrown in the 1960s, were now being ostracized both politically and economically. Sa'dah – described early on by Rudolf Strothmann as being the "main base" of Zaidiyya in the north (Strothmann, 1912: 4) – was especially affected by this process of marginalization.

III. Fighting the Houthi Rebellion

In recent years, the Zaidis – a Shi'a sect – began feeling threatened by Wahhabism and the rise of Sunni-Salafi groups, as well as the economic neglect of Zaidi regions in the north.

History provides the inspiration to the Zaidis' struggle against Sunni authority. Yemenite historian Muhammad Zabara described those who staged the revival of Islam (*mujaddid*, plural: *mujaddidin*) for the Zaidis as "restorers-by-the-sword," attaching to them the counterpart of "restorers-by-knowledge" (cf. Landau-Tasseron, 1990: 251). Archetypes like these are never the reason for conflict, but they play a role in the self-perception of present political actors.

Armed conflict in Sa'dah involving Zaidi insurrectionists – commonly referred to as Houthis (*al-Huthiyun*) – coincided with protests against the United States' invasion of Iraq in 2003. The government responded violently when former parliament member Hussain Badredin *al-Houthi*, then leader of the "religious youth" movement (*shabab al-muminin*), evaded his arrest. He was murdered in September 2004. His brothers, Yahia Badredin al-Houthi and Abdulmalik al-Houthi have since been leading the group. The Houthis enjoy the respect and support of the Sa'dah tribes. The past few years have seen numerous aborted truces between rebels and authorities, most recently in January 2010. After the failed armistice of August 2009, Yemen's military ravaged Sa'dah with a vengeance previously unheard of.

President Saleh publicly declared that he would not stop the war before eliminating the Houthis.

> "We sacrifice many patriotic officers, soldiers and citizens every day. Therefore, no reconciliation, truce or stopping of the war is accepted unless the rebellious group in the Sa'dah governorate is exterminated."[1]

Saleh ordered a large-scale air force operation in which civilian areas were also systematically attacked. This led to a humanitarian disaster widely covered by the International Committee of the Red Cross (ICRC). In late January 2010, Dominik Stillhart, the ICRC's deputy director of operations, stated:

> "The conflict in the north of Yemen has been neglected for far too long. The situa-

tion is made even worse by poverty and a lack of water and food. Most importantly, security conditions have continued to deteriorate, which has also made our work that much more difficult and dangerous."[2]

According to the ICRC,

> "Civilians – particularly women and very young children – are the primary victims of the conflict. Many people are trapped by the conflict and without vital assistance as humanitarian organizations cannot reach them because of the fighting. Others manage to flee to safer areas, where as internally displaced people (IDPs) they often stretch the already meagre resources of the communities hosting them. Existing IDP camps are not always safe and sometimes have to be moved."[3]

It is practically impossible to acquire an objective view of the skirmishes from a local standpoint. Journalists are hindered from documenting the horrors on site. Mohammed al-Maqaleh, whose Socialist Party website had given an account of victims from Sa'dah's civilian populace, was arrested on September 18th, 2009 and detained without trial. The reporter's whereabouts remained unknown until January 2010, with the government denying his incarceration. Only at the end of January, relatives of al-Maqaleh told Yemeni journalists that security authorities had, for the first time, allowed al-Maqaleh to talk to his family on the telephone for merely a minute and a half.[4] Numerous independent journalists have also been put under pressure in recent months. The Arabic Network for Human Rights Information declared that on January 16th, 2010,

> "Yemen has witnessed the first female journalist to be sentenced to three months of imprisonment for insulting the president. […] In addition, she was suspended from writing for a year and the editor of 'Al Wasat' newspaper where the articles were published, Jamal Amer, was fined to 10,000 Yemeni Rials."[5]

The facts are that 5,000 people have died since the combats began, more than 150,000 civilians are on the run, and women have once again become victims of sexual assault in war. By the time Saudi Arabia got involved in November 2009, the situation had escalated into a transnational conflict.

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[1] http://www.yementimes.com/defaultdet.aspx?SUB_ID=33028.
[2] http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/yemen-news-250110?opendocument.
[3] Ibid.
[4] http://www.newsyemen.net/en/view_news.asp?sub_no=3_2010_01_31_40004.
[5] http://www.anhri.net/en/reports/2010/pr0117.shtml.

It is not only Muslim civilians who are caught between the fronts. The war has also claimed Yemen's smallest religious minority, the few hundred remaining Jews. Ironically, Yemen's Jewish community is based in Sa'dah and Amran, the beleaguered provinces.

It is known that Zaidi Imams – particularly Imam Yahya, who founded the modern North Yemenite state – interpreted their leadership position to include the protection of *dhimmis* (cf. Klein-Franke, 1997: 208). Despite this, there are reports on openly anti-Semitic attacks upon Jews by Zaidi rebels, and the Jewish community is in danger of disappearing as part of the war's 'collateral damage.'

IV. Terrorists and Warlords

In the context of the global war on terror, Yemen's authorities have managed to convince the international media that its various conflicts with Houthis, local tribes and separatist movements in the south represent a 'terrorist problem.' The fact that Al-Qaida has chosen Yemen as its retreat – due to the country's weak state system – has turned out to be an opportunity for the government to mobilize international support, which it uses to achieve its very own political and military goals.

The involvement of US counter-insurgency specialists and former Ba'athist secret service officers from Iraq demonstrates the extent to which Western states have let themselves be involved in a nasty local feud. One is left to wonder whether it is despite, or perhaps because of their war crimes that they have been recruited.[6] While Saleh's autocratic regime is receiving short-term foreign support in the areas of military, secret service, politics and economy, in the long run this policy can only lead to a faster collapse of the state. A weak government aiming to stay in power is compelled to be more inclusive in its politics and respect the interests of its various population groups, tribes and social classes.

This strategy makes it possible to establish the basic structures of a state, and maybe even achieve some democracy. Yet when such a government is backed by Europe and the USA, it can implement sheer military force without concern for its own population.

Being endorsed by the USA, the Gulf States and Europe can prove just as fatal as the oil revenue in Iraq or Sudan: untaxed income of a regime leads to a self-empowering authority that no longer needs the people's support, as it can simply buy itself into power.

On the other hand, a government erected on the basis of sheer force and corruption is based on shaky premises. In the intermediate term, the rise of local warlords threatens to weaken the state in its entirety. Rather than retract its support and thereby force the government to select a more inclusive policy, the West has doomed Yemenite democracy to an early grave.

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[6]   http://www.telegraph.co.uk/news/worldnews/middleeast/yemen/6943108/US-forges-alliance-with-Saddam-Hussein-officers-to-fight-al-Qaeda.html.

Dr. Mark N. Katz

Yemen and the "War on Terror"

Especially since 9/11, there has been a conflict commonly known as the "War on Terror" being fought principally between the US and many of its allies on the one hand and Al Qaeda and many of its allies on the other.

In Yemen – a land that has witnessed many conflicts since the early 1960s – there has been conflict taking place between the regime of President Ali Abdullah Saleh and the Houthi rebels in the north. There is also tension between the Saleh regime and southern secessionists. Al Qaeda in the Arabian Peninsula (AQAP) is also active in Yemen.

The US has become primarily concerned about Yemen because of the Al Qaeda presence there, and has sought Yemeni government cooperation in targeting AQAP. Up to now, though, the Yemeni government has been more concerned about the Houthis and the southern secessionists than AQAP. Indeed, although Yemen has received assistance from the US ostensibly for the fight against AQAP, the Yemeni government has also turned to radical Sunnis in the fight against the Houthis.[1] Some of these radical Sunnis may have ties to, or even be part of AQAP.

Yemen is not the first case where a government and an external power supporting it have pursued contradictory aims. Indeed, this is not the first time this has happened in Yemen. In this conflict, as in so many others, the external power is mainly concerned about the global or regional conflict it is involved in, whereas the local government is mainly concerned about its local opponents. The British anthropologist Paul Dresch described how this is the norm in Yemen:

> "[C]ontests among people in the same moral system are sometimes all that matters, and states, even empires with their grand pretensions, become pawns in games of local interest. This is something of a theme in Yemen's history […]. Two brothers at odds may seek help, perhaps, from different governments."[2]

The problem, then, for any outside power (such as the US) which seeks to side with one Yemeni party against another is not only that Yemen is highly complex and difficult for outsiders to understand, but that the Yemenis regard alliances not as fixed and permanent, but as fluid and temporary. While the US Government in particular often sees conflict in "you're either with us or against us" terms, for Yemenis, today's enemies can become tomorrow's friends – and today's friends can become tomorrow's enemies.

Thus, the US has been disappointed with the Saleh government's inconsistent cooperation with Washington in the "War on Terror." While Sana'a aided American efforts to kill or capture Al Qaeda fighters in Yemen for a couple of years after 9/11, its cooperation with the US not only diminished after this, but the Saleh government also moved closer to Sunni radicals inside Yemen that were sympathetic toward Al Qaeda.[3]

Saleh's changing behavior, though, can be understood as an effort to balance the internal and external threats he has faced in a rapidly changing situation. Cooperating with the US in the aftermath of 9/11 and the seemingly successful US-led interventions in Afghanistan and Iraq may have been motivated by a desire to avoid direct US military intervention in Yemen – the possibility of which was then being discussed in the American press. But as the US and its allies became increasingly bogged down in Afghanistan and Iraq, the possibility of the US intervening in Yemen diminished. Just as importantly, the growing strength of both the Houthi rebellion in the north and the secessionist movement in the south not only led the Saleh government to pay more attention to them, but also resulted in its cooperation with Sunni radicals against the Shi'a Houthis in particular. This move was similar to Saleh's alliance with Sunni radicals against the southern secessionists during the 1994 Yemeni civil war.[4]

Thus, while the US sees Sunni radicals as its primary opponents in Yemen and other countries, Saleh has been willing to ally with Sunni radicals against opponents which he has viewed as even more threatening. Since mid-2009, however, American press reports indicate that Saleh has once again renewed his cooperation with the US against AQAP.[5] According to *Washington Post* columnist David Ignatius,

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[1] Johnsen: "The Sixth War."
[2] Dresch: Modern Yemen, p. 25.
[3] "Yemen's War: Pity Those Caught in the Middle."
[4] Raghavan: "Yemen's Alliance with Radical Sunnis in Internal War Poses Complication for US."
[5] Priest: "US Military Teams, Intelligence Deeply Involved in Aiding Yemen on Strikes."

"The breakthrough came last July, when Yemeni President Ali Abdullah Saleh decided that his regime was threatened. It was his fight, in other words, not just ours. 'We had an embrace in July, literally and figuratively,' says Gen. David Petraeus, the Centcom commander who has been the US point man with Yemen."[6]

If Saleh has indeed come to regard Al Qaeda in the Arabian Peninsula as more of a threat than he did previously, then this would certainly explain his renewed cooperation with the US against it.

There could, however, be another explanation for his behavior: realizing that the Obama Administration is especially concerned about AQAP and desirous of obtaining American resources in order to fight against his other opponents, Saleh has a strong incentive at present to make a show of cooperating with the US against AQAP.

Which explanation is correct? If the Saleh government's cooperation with Washington against AQAP continues indefinitely, this would support the former explanation. But if, as before, the Saleh government's cooperation with the US wanes and a degree of tolerance for AQAP in Sana'a re-emerges, this would support the latter explanation. If the February 2010 cease-fire between Sana'a and the Houthi rebels holds[7], the Saleh government may actually be able to focus more attention on AQAP.

But if this cease-fire breaks down – as has occurred previously – then Sana'a may again focus on fighting what it – and not Washington – considers its most threatening opponents. It must be noted, though, that Yemen's complicated political dynamics not only constrain the US and other external actors, but also Al Qaeda. Members of AQAP are protected by various tribes at odds with Sana'a in remote areas of Yemen which the government does not control.[8]

As a result of force, persuasion, or both, the leaders of these tribes could reach an accommodation with Sana'a which results in their expelling or even turning over the AQAP fighters they have hosted. Further, the willingness of various tribes to host AQAP may depend on the tribal Shaykhs believing that AQAP is weak, dependent on, and hence, not threatening to the tribes.

If they see AQAP growing strong enough to threaten the authority of the tribal Shaykhs, the latter may quickly turn to Sana'a – or external powers such as Saudi Arabia or even the US – for support against AQAP. Just as the Saleh government has not always been a reliable partner as far as Washington is concerned, AQAP cannot depend on the Yemeni tribes whom they now cooperate with to remain reliable partners either. Yemen's internal conflicts and the broader "War on Terror" are connected, but separate. Just as resolving Yemen's internal conflicts will not bring about an end to the "War on Terror," resolving the "War on Terror" will not bring about an end to Yemen's internal conflicts.

Indeed, even if – by some miracle – the "War on Terror" came to an end in a manner advantageous to the West like the Cold War did in 1989-91, Yemen's various internal antagonists can be expected to seek assistance from opposing sides in other regional or global conflicts that either already exist (such as Saudi Arabia vs. Iran) or may yet emerge (such as China vs. the West).

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[6] Ignatius: "Military Partnerships May Be the Nation's Best Path to Peace."
[7] "Yemen Declares Truce with Rebels."
[8] Barfi: "Yemen on the Brink?", pp. 12-14.

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Lorenco Guarcello and Scott Lyon

Children's Work and Water Access in Yemen[1]

I. Introduction

Water availability is very limited for much of the Yemeni population. In rural areas, only around 59 percent of total inhabitants, and 52 percent of rural inhabitants, have ready access to water. This low coverage is exacerbated by the poor state of repair of rural water infrastructure. About half of the piped rural water supply systems are either not working or not providing quality drinking water, and, at best, 10 percent of all wells and boreholes are adequately protected to yield safe water (World Bank, 2002). Access to water is ostensibly better in urban areas (74 percent of urban households have ready access), but supply can be irregular and quality often poor, forcing residents to turn to the private sector to meet their water needs.

The adverse public health effects of low water access – particularly with regard to children – are well-documented in Yemen and elsewhere. But the effect of water availability on decisions concerning children's activities has received very little research attention. The present paper explores the relationship between household water access, on the one hand, and children's involvement in schooling and work, on the other.

The next section provides a general overview of the activity patterns of Yemeni children. The following two sections then examine the link between these activity patterns and household water access, and possible theoretical explanations for this link. The statistical information presented in the paper is drawn primarily from the 2006 Multiple Indicator Cluster Survey (MICS), a representative national household survey designed to provide sound and internationally comparable estimates on a range of indicators in the areas of health, education and child protection.

II. Child Activity Status in Yemen

One way of viewing children's involvement in work and schooling is by dividing the child population into four non-overlapping activity groups – children only engaged in employment, children only attending school, children combining school and employ-

ment and children doing neither. How important is employment in relation to the other activity categories? According to MICS 2006, an estimated six percent of 7-14 year-olds fall into the category 'in employment only' and 13 percent combine employment and school, where employment is defined as any form of economic activity performed by children. But most 7-14 year-olds either only attend school (58 percent) or are inactive, i.e., neither in employment nor attending school (24 percent) (Table 1).

The latter group, reportedly inactive children, requires further investigation, but it is likely that many if not most from this group contribute in some way to the household. Some may be engaged in unreported work, while others might not be economically active in a technical sense, but perform household chores – including water collection – that allow other household members to engage in productive activities.

Table 1. Child activity status, by sex and residence

Activity Status	Residence	Male	Female	Total
Employment only	Urban	1.7	1.5	1.6
	Rural	6.2	8.4	7.3
	Total	4.9	6.4	5.7
School only	Urban	79.5	78.6	79
	Rural	53.8	45	49.5
	Total	61.3	54.5	57.9
Employment and school	Urban	6.5	3.7	5.1
	Rural	19.6	11.8	15.7
	Total	15.8	9.5	12.7
Inactive [(1)]	Urban	12.3	16.2	14.2
	Rural	20.4	34.8	27.5
	Total	18	29.6	23.7
Total employment[(2)]	Urban	8.2	5.2	6.7
	Rural	25.8	20.2	23
	Total	20.7	15.9	18.4
Total school[(3)]	Urban	86	82.3	84.1
	Rural	73.4	56.8	65.2
	Total	77.1	64	70.6

Notes: (1) 'Inactive' refers to children who are neither in school nor in employment; (2) 'Total employment' refers to the sum of the categories 'Employment only' and 'Employment and school'; (3) 'Total school' refers to the sum of the categories 'School only' and 'Employment and school'.

Source: UCW calculations based on MICS, 2006

Children's activity status varies significantly by sex and residence in Yemen. In short, employment and inactivity are higher among girls than boys, and among rural compared to urban residents.

For school attendance, the opposite patterns holds true; attendance is higher for boys than girls and higher among urban compared to rural children (Table 1).

III. Child Activity Status and Water Access in Yemen

Children's activity status also varies significantly by household access to public water connections. As shown in Table 2, the rates of employment and inactivity are much higher, and the rate of school attendance is much lower, among children from households without access to public water networks.

These patterns are especially pronounced among girls, although they hold for boys, too. The rate of employment among girls from households without water access is about one-third higher, and at the same time their involvement in school is about one-fourth lower, relative to girls from households that enjoy water access (Figure 1).

The rate of reported inactivity is also more than one-third higher for girls from households without water access compared to those with access, suggesting that many ostensibly idle girls are actually involved in collecting water for their households.

Table 2. Child activity status by water access, [1] by sex and residence

Activity Status	Households with water access			Households lacking water access		
	Male	Fe-male	Total	Male	Fe-male	Total
Employment only	3.5	3.6	3.5	7.1	10.7	8.9
School only	64.9	60.9	62.9	55.9	44.9	50.4
Employment and school	14.5	10.0	12.3	17.6	8.8	13.3
Inactive[2]	17.1	25.6	21.3	19.4	35.6	27.4
Total	100	100	100	100	100	100
Total employ-ment[3]	18.0	13.5	15.8	24.8	19.5	22.2
Total School[4]	79.4	70.9	75.2	73.5	53.7	63.7

	Households with water access			Households lacking water access		
	Male	Fe-male	Total	Male	Fe-male	Total
Employment only	1.2	4.9	3.5	3.0	10.1	8.9
School only	80.8	52.5	62.9	72.9	46.1	50.4
Employment and school	4.5	16.8	12.3	7.3	14.4	13.3
Inactive[2]	13.5	25.8	21.3	16.7	29.5	27.4
Total employ-ment[3]	100	100	100	100	100	100
Total School[4]	5.7	21.7	15.8	10.3	24.5	22.2

Notes: (1) Water access is defined as population using *improved sources* of drinking water. Improved sources, in turn, are those using any of the following types of supply: piped water (into dwelling, yard or plot), public tap/standpipe, tubewell/borehole, protected well, protected spring, rainwater collection. (2) 'Inactive' refers to children who are neither in school nor in employment; (3) 'Total employment' refers to the sum of the categories 'Employment only' and 'Employment and school'; (4) 'Total school' refers to the sum of the categories 'School only' and 'Employment and school'.

Source: UCW calculations based on MICS, 2006

Figure 1. Girls' activity status, by household water access
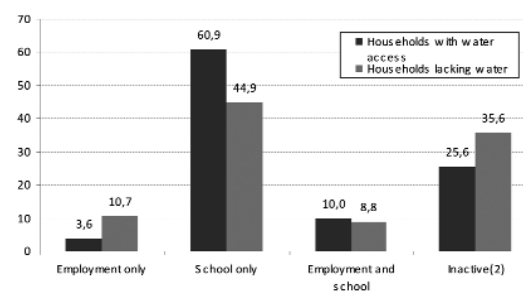
Notes: (1) Water access is defined as population using *improved sources* of drinking water. Improved sources, in turn, are those using any of the following types of supply: piped water (into dwelling, yard or plot), public tap/standpipe, tubewell/borehole, protected well, protected spring, rainwater collection. (2) 'Inactive' refers to children who are neither in school nor in employment.

Source: UCW calculations based on MICS, 2006

Results from a previous analysis indicate that the relationship between household water access and children's activity status holds even when taking household income and other background factors into account.

All else held equal, connection to a public water network increases the probability of children attending school by 11 percentage points in urban areas and almost seven percentage points in rural

areas. The largest portion of this increase in enrolment comes from the ranks of ostensibly inactive children rather than from the ranks of children in employment. In urban areas, for example, access to a public water network makes it 9 percentage points less likely that a child is inactive, but only around 2 percentage points less likely that a child is involved in work.

This again suggests that many reportedly inactive children in fact have an important role in water collection, and providing their households with access to water makes it more probable that they are able to attend school.

IV. Discussion

Why this strong apparent link between water access and children's activity patterns? The availability of safe water supplies affects parents' decisions concerning their children's activities in at least two important ways.

The first centers on the direct cost of water procurement. Households without ready public water access, particularly in urban settings, must often resort to purchasing water through a variety of private schemes. In Sana'a and Taiz, for example, 89 percent and 61 percent of households, respectively, buy additional water. In four major cities (Sana'a, Taiz, Mukalla and Hodeidah) households face an average additional monthly cost of YR 1,150 (or approx. USD 4.86) for the purchase of water for general use and drinking, a figure that excludes fees paid to private water networks (YR 300-1,100 per household per month).

These expenses undoubtedly make it more difficult for vulnerable households to afford direct schooling costs (for books, writing materials, school meals, etc.), and may also make them more dependent on the labour and/or income of their child members. In theoretical terms, high direct water costs make poor households less able to trade the immediate returns gained from involving children in work for the longer-term returns realised from investing in their education.

The second way in which water access affects parents' decisions relates to the time requirements associated with water collection. A lack of ready water access, particularly in rural contexts, means having to carry water from long distances, placing a significant time burden on the household. In such circumstances, putting children in school may mean adults having to undertake greater responsibility for water collection, leaving them less time and energy for other productive activities.

As seen above, when this opportunity cost is removed by providing households with water access, school enrolment rises significantly, especially among the ranks of reportedly inactive children (the group that likely bears the primary burden of water collection).

The empirical results presented in this paper indicate that improved access to safe water supplies has a crucial role in getting children, especially girls, into school and out of work and water collection duties. The results point to the general need to ensure that child work considerations are mainstreamed into government water management policy. They underscore the importance of accelerating current government efforts to expand access to potable water in both rural and urban areas, with a particular emphasis on communities where school attendance is low and child work rates are high.

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Dr. Ahmed Farouk Ghoneim
Yemen's Prerequisites for Effective Integration in the World Economy

I. Status of integration in the world economy

Yemen can be characterized by most trade indicators as a liberal, open market economy. The Government of Yemen (GoY) started a trade reform program in 1995 with the assistance of the World Bank and the International Monetary Fund (IMF). Reforms have been in the direction of liberalizing and integrating the Yemen into the global economy.

The simple average applied tariff rate was 12.8% in 2000 and further down to 7.1% in 2007 (WTO, 2008) and the weighted average tariff rate in 2006 has been 10.5%. Yemen's relatively low average tariff rates are less than that found in a large number of Arab countries. Moreover, a large number of non-tariff barriers have been abolished starting 1996 onwards (IMF, 2001).

Despite such liberal policies Yemen's integration into the global economy through trade in merchandise goods remains modest. The average annual growth rate of Yemen's exports over the period 2000-2007 has been 9%, however such high rate of growth reflects rather an increase in the international oil prices, which represent the major export for Yemen. In fact, the real average annual exports growth rate over the period 2000-2007 was -1% (WTO, 2008). Moreover, services exports remain modest to a large extent. The liberal and trade reform policies undertaken by GoY have not been translated into significant changes in enhancing non-oil exports.

Yemen does not follow any specific policy regarding targeting promising export sectors and promoting them through subsidies or any other means of assistance. This is mainly a result of the limited diversification of exports and the low volume of non-oil exports, being mostly concentrated in fish and agricultural products. Moreover, lack of effective institutions governing trade policy and/or promoting exports added to the neglect of the non-oil merchandise exports (with the relative exception of fish).

Yemen applied for accession to the World Trade Organization (WTO) in April 2000, however the accession process is still taking place. Yemen is a member of relatively few regional trade agreements (RTAs). For example, Yemen joined the Great Arab Free Trade Area Agreement (GAFTA) in 2001. Moreover, Yemen has two preferential trade agreements with both Iraq and Saudi Arabia. Yemen has also been pursuing membership of the Gulf Cooperation Council (GCC), and in 2002 Yemen joined some of the GCC committees (sport, labor, education, and health). Moreover, Yemen currently applies the GCC system of standards. The prospects for Yemen joining the GCC are far from clear as political clouds can play a role to block such accession.

Regarding RTAs with developed countries Yemen has signed a Trade and Investment Framework Agreement (TIFA) with the United States of America in February 2004. The TIFA aims at promoting investment and trade reforms in Yemen and could act as a catalyst for reforms due to the involvement of a powerful trading partner as the United States of America, however it did not reach the status of a formal RTA.

II. Explaining the weak performance

The efficient functioning of a liberal open economy depends on the existence of appropriate organizations and institutions by regulating and monitoring the functioning of a market economy. However, Yemen to a large extent lacks such organizations and institutions. For example, Yemen has not established a full-fledged antidumping and has not adopted a competition law.

Moreover, most Yemeni trade-related organizations are not able to carry out their functions owing to a combination of limited human capital and weak enforcement mechanisms. For example, the Supreme Council for Export Promotion (SCEP), with the objective of promoting Yemeni exports was established in 1997 (WTO, 2002). However, the Council remained ineffective and had not performed any significant activity

In addition, Yemen's export performance is a cause for concern. Exports are concentrated in a narrow range of primary products. Oil is a finite resource and reserves are likely to be exhausted by 2012 at the latest. International organizations have echoed such concerns in several reports (IMF, 2005, UNDP, 2005) especially after the accelerated

depletion of oil reserves in recent years. Non-oil exports are concentrated in slow-growing sectors of global trade (with the exception of natural gas) and in which Yemen will face stiff competition from other low-income economies. Moreover, though Yemen has honey and coffee that are well reputed for their high quality, they do not represent a high percentage of Yemen's non-oil exports. In general, there is a weak link between agriculture and agro-industrial activities.

Moreover, Yemen suffers from lack of competent quality control authorities and institutions that are capable of ensuring high quality of agro exports (UNDP, 2005).There are limited chances of exports' diversification in the short and medium terms, hence adding to the worries on Yemen's trade future.

III. Prospects for services trade

Services are of paramount importance for Yemen. For example, transportation and communications represent around 10% of GDP whereas tourism represents less than 2% of GDP (World Bank, 2002; Republic of Yemen, 2002). In fact, it could be argued that services can act as the "engine for growth" in Yemen if properly managed. The Poverty Reduction Strategy Paper has identified a number of service sectors that should act as leading sectors in the economy, including tourism, construction, transport, and communications (Republic of Yemen, 2002).

The reason behind such great importance allocated for services lie in the weak manufacturing base in Yemen, few manufactured exports whereas the potential for making use of services as an engine for growth is huge but remain untapped.

Among the weakness of the Yemeni economy is the absence of a strong financial sector that can act as intermediary between savings and investments. Hence improving financial services can definitely help the economy to perform better. Moreover, Yemen has potential comparative advantage in exporting services as tourism, construction and transport. However due to weak infrastructure (Economic Intelligence Unit, 2006) and absence of a regulatory framework such potentials are not reaped.

Given the geographical position of Yemen, there is great potential for Yemen becoming another hub in the Arab region regarding sea and air transport, beside its huge tourism untapped potential (World Bank, 2002). Moreover, trade in services differs substantially from trade in goods as it implies in many cases inflows of foreign direct investment (FDI) and the reduction in transaction costs to domestic enterprises.

However, given the absence of the necessary institutional infrastructure and regulatory framework liberalization of trade in services is not likely to yield a positive impact on the economy. For example, a World Bank study has identified that the potential of the tourism sector is not reaped for a number of reasons including poor and expensive transportation, difficult operating environment for tourism, weak promotion, lack of proper institutional infrastructure including appropriate laws and regulations, and insecurity (World Bank, 2002).

Moreover, developing services infrastructure is likely to have positive spill-over effects on merchandise trade. For example, development of Aden and Hodeida ports can help enhance transport exports as well as facilitate merchandise exports. As most of Yemen's non-oil exports are concentrated in fish and food products, this implies that they are sensitive to time element and efficiency of port services including handling, storage, and, clearance. The development of such services is likely to enhance exports' development.

IV. Conclusions and Policy Requirements

In the presence of insufficient policy, institutional, and structural reforms, accompanied by a weak export supply base merchandise trade prospects for Yemen are not encouraging. The dominance of oil exports and low diversification of non-oil exports represent a major concern, especially when accompanied by the high probability of oil reserves depletion in near future.

There is high potential for increasing natural gas exports if proper incentives for the private sector engagement are guaranteed, however it is unlikely that gas exports can compensate fully for the expected loss from oil exports proceeds. Fish exports are promising, however there is a need to re-regulate the industry to ensure that Yemen benefits from such exports. Services trade has more potential especially in the areas of tourism and transport, however such potential is not exploited.

There are some niche areas in merchandise and services trade that carry huge untapped potential. For example, exports of coffee, honey, and other food products should be enhanced further. The development of such exports requires, besides upgrading the standards system, improving

services at the borders including handling, storage, and other clearance activities. Hence, improving transport and port services is a necessary condition for development of merchandise trade.

The development of such services carries in itself a huge potential for enhancing exports of Yemen where due to its geographical position in can become a regional hub of maritime transport and logistics. WTO accession process is forcing Yemen to upgrade its institutional infrastructure, nevertheless there are other institutions that need to be developed to ensure a well-functioning market economy. RTAs initiatives are still in their infancy and there are no prospects for significant economic benefits likely to arise for Yemen in the short to medium terms from joining such RTAs.

There are some positive prospects from joining the GCC. Accession to WTO and joining RTAs should be looked at as an anchor and accelerator for the delayed domestic reforms, especially those dealing with regulations, to ensure a positive outcome from liberalizing Yemen's trade regime.

Regarding Yemen's joining of RTAs, Yemen should not seek to join a large number of RTAs as other countries in the world are currently doing in general. Yemen should devote its efforts and its limited human and technical resources to negotiating few, but beneficial, RTAs. Yemen's status as a LDC should be better utilized in trade agreements or initiatives that Yemen is engaged in or could possibly join.

In general, there is an urgent need to draw a strategic trade policy for Yemen identifying the vision towards the future with the promising sectors and the policies envisaged to be developed to promote such promising exports.

Most importantly, Yemen should focus on developing the necessary domestic institutional infrastructure that is a prerequisite for the success of its policy in general and the different RTAs it is pursuing in particular. The regulatory reform requires an adequate institutional infrastructure to overcome regulatory barriers.

There is a need for a more effective role of the government in this regard. An evident example is the case of conformity assessment in the areas of Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary (SPS) where if there is no adequate infrastructure, it is unlikely that regulators in the members of RTA would recognize and accept results of conformity assessment bodies in Yemen.

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Dr. Werner Daum

Yemen
A short History of three Millennia

I. Introduction

Yemen is the land of the Queen of Saba. Upon Jerusalem, so tells the Bible, she travels with her caravan, laden with all the riches of Arabia, to the palace of King Solomon, bringing gold, incense and myrrh, testing him with riddles, and finally acknowledging the one true God.

The Qur'an does not proclaim a new religion. The prophets of the Old Testament, they are all there, as is Jesus, the last one before Muhammad. But the Queen of Saba, coming from Arabia, has of course a special place in the Muslim Holy Scripture: It is with loving detail and much fantasy that Sura 27 describes how Prophet Sulayman (the Arabic form of Solomon) hears about the mighty Queen, and how he dispatches a letter to Yemen, by carrier-hoopoe, indeed the invention of air mail. The beautiful Queen is intrigued. She wishes to find out more, travels north and is so impressed by Sulayman's wisdom and the Prophet's call to profess the one God that she abandons her old belief in worshipping the sun, and proclaims monotheism.

II. The Beginning of South Arabian History

Solomon is usually dated to ca. 965 to 925 BC, but neither his might and splendour nor his very existence have been proven by archaeology or scriptural evidence until now. The same must be said for the Queen of Saba (often also transcribed as Sheba, from the Hebrew form).

On the other hand, we should not disregard the story as a legend. Women rulers of Arab tribes or confederations were not uncommon in the early first millennium BC. Assyrian inscriptions tell us about the victory, in ca. 733 BC, of King Tiglath Pileser III., over a "Samsi, Queen of the Arabs, 9400 of her warriors, I killed (…)".

We must therefore interpret the Sulayman / Queen of Saba story as a reflection of some historical truth, merging the unheard of novelty of female rulers with the fabulous wealth of Southern Arabia and its lucrative overland trade on the "Incense Road".

Assyrian inscriptions also provide some crucial elements for the dating of the earliest periods of the history of Saba: in the mid-8th century BC, the As-

syrian governor of Sukhu and Mari (=Deir ez-Zor, in Eastern Syria) apprehended a caravan from Saba (and others) who were obviously unaware of his rules for tribute. In the year 715 BC, King Sargon II. mentions tribute from Yitha' Amar the Sabaean, while his son, Sanherib, records tribute from Karib II, King of Saba.

III. Karib Il Watar the Great – the Beginnings of Saba

Here we are on firm historical ground. Over a hundred years ago, Eduard Glaser discovered a monumental inscription in the temple of Sirwah (west of Marib), the *res gestae* of Karib Il Watar, dating to appr. 685 BC. In this inscription, Karib Il Watar, whom historians now rightly bestow with the epithet "The Great" describes with much detail how he destroyed and conquered the South Arabian kingdom of Ausan, but also his works of peace: construction, irrigation, agriculture.

Recently, in 2005, the German Archaeological Institute discovered a second monumental inscription in Sirwah, this one by Yitha' Amar Watar, the king mentioned by Sargon II. The 49 m long text deals with his victorious campaigns against Qataban.

IV. The History of the Caravan Kingdoms

Saba, established around the beginning of the millennium (or slightly before), was the oldest and most powerful South Arabian kingdom until about 550 BC. Then, Hadramaut (capital Shabwa) and Qataban (capital Timna') redressed themselves, with Qataban being the most powerful state in Yemen until the second century BC. In about 430 BC, Ma'in, in the Jauf, also separated from Saba, and established its independence as the main overland trading community. These states were all situated at the eastern fringes of the Yemeni highlands, towards the desert of the Rub' al-Khali. Here, the rains of Yemen's two rainy seasons formed large Wadis that supported some of the most daring hydraulic achievements of antiquity.

V. The Great Dam of Marib, the Wonder of the World

Marib, the capital of Saba, has preserved much of it until the present day: a big earthen dam, 680 m long, closed the Wadi Dhana where it left the

mountain. This dam was not meant to hold the water back, in the form of a reservoir, but served to stop it and to divert it to the two monumental sluice gates still visible today. Beautifully built, with perfectly hewn stones and hydraulic cement, *qudad*, a technique which has continued in Yemen up to the present day, the gates are however later than what earlier scholarship thought.

In their present form, they represent the system as it worked from ca. the 6th century southern oasis (the "Two Gardens", *al-jannatan*, as the Qur'an calls them in Surat 34, 15 and 16) were irrigated through a most intricate system of distribution. Rightly counted among the Wonders of the World, the Marib irrigation system and its rich agricultural yield supported a population of up to 50,000 persons.

When the seasonal floods were exceptionally strong, parts of the dam and its structures were swept away, and had to be repaired with great expense of men and material. Its definitive destruction and abandonment occurred in ca. 600 AD.

The Sabaeans no longer had the determination and intellectual capacity to muster the means for rebuilding it. The catastrophe did not cause, so we should say, the end of Saba, but rather formally signed its exhaustion after centuries of material and spiritual decline. The Qur'an is right in seeing the end of the mighty dam as a sign sent by God to mark the end of an epoch, and at the same time, the beginning of a new era.

VI. Yemen before Saba

The emergence of Saba constitutes a very clear cultural break with previous cultures. While it is true that irrigation in Marib began at least in the 3rd millennium (remains of a monumental barrage system, "Bau A" and "Bau B", have been dated to the late 2nd millennium), the characteristic cultural element is the lack of continuity between the Yemeni Bronze Age cultures and the following Sabaean period. The most important new factor is the appearance of writing: Writing seems to have been introduced before the year 1000 (some letters on ceramics from Yala and Raybun can be dated to the 12th century), with the art of beautifully crafted monumental inscriptions emerging in the 8th century.

It can confidently be argued that the art of calligraphy, so intimately associated with Arab civilisation, has its direct roots in ancient Yemen. Writing, ceramics and architecture have led archaeologists to postulate a cultural influx from the region of greater Syria, as an agent for the sudden birth of South Arabia's high civilisation in the mid/late 2nd millennium. The ancient Yemeni religion is also clearly related to the religion of Ugarit; but above all it is the alphabet that strongly points in this direction.

VII. The Alphabet

Two of mankind's greatest achievements have been made in the ancient Middle East: Writing was invented simultaneously in Mesopotamia and Egypt towards the end of the 4th millennium. Later, between 1800 and 1500 BC, the idea of an alphabetical script was born, somewhere in greater Syria. To be more precise: the alphabet, from its very first beginning, was based on one system, but ordered in two different sequences, one which is called the Phoenician form, and another one, with the South Semitic letter order.

While almost all the world's alphabets derive from the Phoenician form (including ours and Arabic), the South Semitic alphabet (which to this day lives on in Ethiopia where it travelled from Yemen in the early 1st millennium) was based on the same idea, the same forms and principles, but in a different letter order.

This groundbreaking discovery was made by a Russian scholar, A. G. Lundin, when he noticed that two cuneiform alphabets, from Beth Shemesh in Palestine, and from Ugarit, respectively, had the same letter order as the Sabaean and other South Arabian alphabets. Like other cultural markers, the alphabet must therefore also have travelled from the Levant to the Yemen, in appr. the middle of the 2nd millennium. All this need not to be understood as a kind of mass migration, but must have involved some movement of people.

VIII. Arabic and the Languages of Ancient Yemen

There has been much confusion over these questions, and there still is. Scholarly insight into their relationship has however seen great progress in recent years.

Scholars today agree that Sabaic, Minaic, Hadramutic, Qatabanic etc. are different languages, not just dialects. While they are undoubtedly related with the so called Modern South Arabian languages (Mehri, Soqotri, Jibbali), these cannot be their successors, but go probably back to other (unrecorded) Ancient South Arabian languages.

All these South Arabian languages are not a form of Arabic, but an independent group within Semitic. Arabic also is no longer seen as a linear development from "Old Arabic" via "Early Arabic" to "Classical Arabic", but something that has existed in parallel to other languages in Northern Arabia, such as Lihyanic, Safaitic, Thamudic etc. (which were by the way written with South Semitic letters) – Arabic thus being an unwritten, unrecorded language in Northern Arabia, until adopted / recorded by the Nabataeans, and written with their form of Aramaic alphabet.

IX. Religion in Ancient South Arabia

Every state had its state god. In the case of Saba, his name was written 'LMQH (sometimes 'LMQHU). The vocalisation is not known. It is therefore conventionally transcribed as "Almaqah", a word that does deliberately not have a meaning. In the opinion of this writer, the name should be transliterated as "Il Muqqah", which means "the God who provides water", from *qahwa*, a Yemeni dialect word for drinking.

In all states, the pantheon was headed by the God 'Athtar, his name being related to the supreme female deity of the Akkadians, Ishtar. He was associated with a paredra, the Sun goddess, named Haubas in Saba.

X. The Incense Road

From earliest times, all regions of the Arabian Peninsula were connected by trade routes. Very recently, in Kuwait, at Subiya, an 'Ubaid 5th millennium site, obsidian was discovered that originated in South West Yemen.

However, the Incense Road is much younger, and must be connected with the domestication of the dromedary. This and the above mentioned inscriptions from Mesopotamia allow for situating the beginning of the South Arabian caravan trade to the early 1st millennium.

The indigenous riches of South Arabia were incense and myrrh. But Greek and Roman authors also speak of spices, such as cinnamon and cassia as coming from Yemen. We must therefore postulate a thriving trade between India and Yemen, already in this period, cleverly concealed by the ancient Yemenis.

Trading on the Incense Road was no mean achievement: Erathostenes gives its length (from Ma'in to 'Aqaba) as 70 days, Plinius the Elder (from Shabwa to Ghaza) as 65 days. Plinius also laments Rome's enormous trade deficit with the Yemenis (and their goods from India and China): 100 million sestertii – that much we pay for our luxuries and our women. In 25/24 BC, Rome tried to conquer Saba, but failed in the sands of Marib.

During the 1st century BC, a new tribal confederation emerged in South West Yemen, Himyar, centred around its capital Zafar (near Yarim). By the end of the 3rd century AD, Himyar, under Shammar Yuhar'ish, its greatest king, had subdued and united the whole of Yemen (Saba, Hadramaut etc.).

From the end of the 4th century onwards, Himyar consolidated its hold over most of the Arabian Peninsula, including Mecca and today's Riyad, through its overlordship over Kinda and other tribes.

In late antiquity, Yemen was caught in the rivalry between Constantinople and Sasanian Iran. While the Himyarites had already, from the 3rd century on, adopted a kind of monotheism, with "The Lord of Heaven and Earth", Rahman, as their highest deity, King Yusuf As'ar tried to avoid taking sides by adopting Judaism. When the Abyssinians (encouraged by Constantinople) invaded the country, in 525, Yusuf was killed.

The caravan trade had long since ceased to exist: from the 1st century BC, long distance trade between Roman Egypt and India had taken to the sea, after the legendary sailor Hippalos had discovered the monsoon winds system. It was at this time that the Greeks applied the name of Himyar ("the red-ones") to the sea between Africa and Arabia, calling it "Red Sea", Eretryos Pontos, and that Muza (modern al-Mukha or nearby) and Aden (Eudaimon Arabia) flourished.

XI. Yemen Embraces Islam

After 1500 years of great civilisational achievements, Yemen was exhausted. Trade bypassed the country. The wonder of the world, the dam of Marib, broke. A profound spiritual and religious crisis had crippled the country for centuries, foreign occupants ruled at their wish. "Arabs" (i. e. Bedouins) were now everywhere in the country, bringing a new identity and a new language, but also adopting elements of South Arabian religion.

Their main influence was however a change in social structures: from the territorial understanding of "tribe" (*sha'b*) to the descent-ideology of *qabila* (reflected in Qur'an 49,13) that occurred while the

names of the old tribes, such as Hamdan or Bakil, were maintained.

In this period of disarray, moral insecurity and economic decline, came the powerful message of the Prophet Muhammad. It was during his lifetime that the tribes of Yemen embraced the new religion. In 628, Badhan, the last Persian governor, converted to the new faith. In the same year, the mosques of al-Janad (near Ta'iz) and the Great Mosque of Sanaa were built.

XII. Yemen's Early Medieval History: the Establishment of the Imamate, the Foundation of a University, Women Rulers and the Ayyubid Conquest in 1173

The first Islamic centuries saw a multitude of small dynasties in Yemen. It has to be stressed that Yemen, at this time, did not constitute a territorial, political, or psychological unity: that was created only in the year 1173, the year of the Ayyubid conquest of Southern Arabia.

From this moment onwards, we can speak of Yemen as a country: 1173 is thus the most important date in the medieval history of Yemen.

That shall not prevent us from highlighting three earlier events: the foundation of the University of Zabid, the establishment of the state of the Zaydi Imams, and the reign of Queen Arwa.

Zabid, the main city in the Tihama, was founded by Muhammad b. Ziyad, a general sent from Baghdad to the Tihama to suppress a rebellion. One year later, in 204 AH (819 AD), a school of Islamic sciences was founded in Zabid by Abu Qurra Musa b. Tariq. Zabid has maintained its fame as the Arab world's oldest seat of higher learning (the word "university" is somewhat misleading) for over a thousand years, so much so that the author of the Arabic language's largest and most comprehensive dictionary, the 40 folio volume Taj al-'Arus, Murtada (18th century) added "al-Zabidi" to his name, as a tribute to the place where he had studied.

The other event is the arrival of Yahya b. al-Husayn al-Hadi ila al-Haqq in Sa'da, in 284 AH (897 AD). Imam Yahya, a descendent of 'Ali and Fatima, established himself as the first Zaydi Imam in Yemen, inaugurating a dynasty that ruled northern Yemen, and often Sanaa and much more, for over a thousand years, until the revolution of 1962. The Zaydiya is a very moderate form of the Shi'a; its main aspect is its belief in the freedom of the human being, in contrast to the leaning of mainstream

Sunni Islam towards predestination. In this context, a particular Yemeni institution must be mentioned, the sacred enclave, where a man of Islamic learning establishes a sacred territory respected by the surrounding tribes, thus allowing peaceful trade and, if nessecary, reconciliation in case of feuds.

This institution is called *hijra* in the Zaydi Yemeni highlands, and *hauta* in the South and the Tihama. The name recalls both the Sabaic word for town (*hajar*), and the Prophet's *hijra* from Mecca to Medina, and the establishment there of the Islamic state. It has been suggested that *hijra*, in Medina also, should be seen in this context. While the earliest documented *hijra* in Yemen dates only to the 9th century AD, its parallel, the *hauta*, goes back to pre-Islamic times.

Queen Arwa bint Ahmad, whom her contemporaries called Bilqis (= Queen of Saba) the Younger, ruled another Yemeni kingdom, the Sulayhi state, for over half a century. In 1074, her husband transferred the rule onto her; she moved the capital from Sanaa to Jibla which she endowed with beautiful mosques. Her fame spread over all of Yemen; the very considerable customs revenues from Aden allowed for a wide ranging building programme. She died in 1138, aged 88.

Saladin (d. 1193), after the conquest of Egypt, sent his brother Turanshah (d. 1180) first to Nubia and Northern Sudan, to suppress a revolt of his black troops. From there, Turanshah set his eyes on Arabia, in order to include Mecca in Saladin's domain, and then conquering Yemen (1173).

In Sanaa, he established the Bustan al-Sultan quarter; in Aden, he prevented his troops from plundering the city, with the famous words:

> *"We did not come here to plunder, but to make use of this city's income".*

With the establishment of Ayyubid power in Yemen, the world's most advanced modern system of government was laid over the country: a professional bureaucratic administration, the scientific encouragement of agricultural production, and a customs-system in Aden geared to attract foreign commerce, and to create a stable income from duties. Administrators and soldiers even had to pay income tax. It was this system that under the following dynasty (the Rasulids) created the world's first true globalised trading network, connecting Cairo with India and China, opening the Indian Ocean not only to commerce, but also to the unifying band of a common religion, Islam. Aden was its

economic and political centre, not only for Muslim traders, but also for big Jewish merchant houses with branches in Cairo, Aden and India.

In 1228, the deputy to the last Ayyubid governor proclaimed himself Sultan, and thus initiated Yemen's most splendid medieval period, the reign of the Rasulids. Their most influential ruler was al-Malik al-Muzaffar Yusuf (r. 1249-1295), a truly enlightened monarch who expanded Yemen's political, economic and military influence along the South coast of Arabia, the Gulf, and most of India.

Extraordinary buildings were erected by the Rasulids, many of them by women members of the royal house, beautiful metalwork and glass was commissioned. In 1296, Sultan al-Malik al-Ashraf 'Umar constructed an astrolabe with his own hands. The Rasulid Sultans were poets and authors; many of their manuscripts are still waiting to be printed.

XIII. The Year 1500: the Old World Ends, a new World is born

Around 1500, the world changed dramatically. We are accustomed to seeing this in relationship to Europe (the fall of Constantinople, the printing press, the Renaissance, and the Reformation), but it also affected Yemen through the great voyages of discovery: In 1490, Martin Behaim constructed the first terrestrial globe, encouraging Columbus to travel westward. The Portuguese sailed to India around Africa, attacking Aden in 1513.

The Ottomans, from their newly conquered province of Egypt, had to counter this, occupying Sanaa in 1538, and Aden in 1539. For a hundred years, until 1635, Yemen was a Turkish province, and a backwater in international relations.

XIV. The Age of the Coffee Trade – and the City of "Mocca"

At the same time, a new luxury was going to bring much income to Yemen: coffee. The new beverage became one of the world's most sought after commodities, and Yemen had its monopoly. The export was centralised in the port of al-Mukha (pronounced "Mocca" by the Portuguese). While the wild plant grows in both Ethiopia and Yemen, the first-one to make a beverage from it was the Sufi saint of al-Mukha, 'Ali b. 'Umar al-Shadhili (d. 1418). He had found, so goes the legend, that drinking coffee kept the sleep away, and thus allowed for prayer and spiritual exercise for the whole night. He is indeed to be credited with the popularising of coffee; to the present day, the descendants of 'Ali al-Shadhili continue to act as the wardens of their ancestor's mosque.

The story of coffee and how it conquered the world is well known. In 1650, there were 643 coffee-houses in Cairo, one third of Egypt's foreign trade was in coffee. Istanbul, Marseille, Paris, London, Leipzig and of course Vienna followed.

Until the early 18th century, Yemen was the only coffee producing country, when the Dutch succeeded in smuggling coffee trees to Indonesia, from where it reached the Americas.

XV. The British in Aden, the Turks in Sanaa, Independence and Revolution

When the British Empire had established itself in Egypt and India, it seemed of course necessary to occupy Aden (in 1839). This, and the construction of the Suez Canal, prompted the Ottomans again to seek a stronghold in Yemen: occupation of Sanaa in 1872.

The Treaty of Da'an (1911) secured self-rule for Imam Yahya in the Zaydi territories; in 1919, Yemen became independent again. The revolutions in Ta'iz and Sanaa 1962, and in Aden 1967 created two independent republics which united in 1994.

History tells us that Yemen was never "isolated", but lived in constant exchange and interaction with Egypt, the Middle East, and India, while always playing an important role within the Arabian Peninsula.

Dr. Babak Rahimi

The Virtual Ulama:
Dissent, Internet and Shi'i Clerics in Post-revolutionary Iran

I. Introduction

This paper is a study of political impact of the Internet on Shi'i Islam since the mid-1990s, when the new information technology was first introduced to post-revolutionary Iran. It focuses on the ways in which Shi'i *ulama* (or clerics), who oppose the theocratic political structure of Iran, have used the emerging technology to carve out new, virtual spaces of dissent against the political structure of the Islamic Republic. The main argument here is not that the Internet is merely employed as a means of expression to articulate non-conformist views by certain Shi'i *ulama*, but how the new technology has created a complex communicative sphere in the *re*formulation of Shi'ism, wherein the authority to understand the sacred could be contested through online discursive processes. In many ways, the Internet is viewed here as a type of virtual interactive space of publicity in which various discourses shape diverse conceptions of sacred reality. In the case of Iran, these emerging spaces have formed virtual communities that enable *ulama* and their adherents to produce a wide array of oppositional discourses that reconceptualize Shi'i Islam on different levels, starting from the basic notion of the spiritual legitimacy of political power under clerical rule. The present study looks at Shi'i cyber activism on three significant phases of development: the "reformist period," during which the Internet rapidly opened up a virtual field of contestation between reformists and conservatives between 1997 and 2003, the former aiming to reach for broader powers against the unelected state institutions. In this first phase, the study looks at a key clerical figure, Ayatollah Hussain-Ali Montazeri, and underlines how his revised political theology of Islamic polity, grounded on the discourse of human rights, injected a new Shi'i political discourse largely through online activism.

The second stage (2003-2009) is identified as the "Najaf period," a critical phase in the development of the Internet in the Shi'i transnational community, during which the rise of Ayatollah Ali Sistani in Najaf, Iraq, promoted the rise of Shi'i online discourses that promoted the quietist conception of Shi'ism, hence, implicitly challenging the politicization of the hierocratic authority under the Islamic Republic. In this second stage, Iran saw an increase of Shi'i opposition online, largely led by the mid-ranking clerics based in Qom and Tehran,

who actively used the new technology to circumvent regime censorship and express their pro-Sistani views on Shi'i authority.

The third stage, the "Green period," marks the turmoil that followed the disputed 2009 Presidential Elections, believed by the opposition candidates and their followers as manipulated and rigged. In this period, it is argued, a new political discourse began to emerge from a number of dissident *ulama* who blatantly pronounced the ideology of the Islamic Republic as illegitimate and, therefore, un-Islamic. In many ways, *Facebook*, *YouTube* and *Twitter* played a critical role in disseminating oppositional views of reformist *ulama* on an instantaneous and pervasive basis. These virtual interactive spaces, ultimately, marked new spaces of transgression through which new understandings of Shi'i jurisprudence and political philosophy of Shi'i Islam can be articulated.

II. "Reformist Period"

In the wake of the 1979 Iranian revolution, Twelver Shi'i Islam saw the crystallization of a major radical movement led by activist clerics and militant ideologues with a revolutionary agenda to establish an Islamist political order.[1] The institutionalization of the political ideology of the *velayat-e faqih* or the "guardianship of the jurist," advanced by Ayatollah Ruhallah Khomeini (1900-1989), brought to the fore a new interpretation of Shi'i government that assigned *ulama* with the responsibility to rule on behalf of the Twelfth Imam, whose eventual return is believed to culminate in the establishment of divine justice on earth (Arjomand: 1988, pp. 98-99). With the authority to participate in the political decision-making process, the new activist clerics emerged to help the first theocratic power in Shi'i Islamic history, hence breaking away from the traditionalist quietist school of thought, dominant within Shi'ism for centuries.

During the first nine years following the Iranian revolution, the Islamic Republic emerged as a revolutionary state with a project to advance a new model of Islamic polity in the Middle East and beyond. During this period, known as the Khomeinist phase, the Islamist regime wrestled with the question of how best to institutionalize the different branches of Islamic government and cope with the transition from autocratic monarchy to theocracy.

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[1] Twelver Shi'ism is the largest branch of Shi'i Islam and maintains the largest adherents in Iran. For a classic study see Momen: 1987.

While struggles with pragmatists and ideologues over state management continued to make head-lines, the Iran-Iraq war (1980-88), perceived as a Western aggression led by a corrupt Arab govern-ment, enabled the revolutionaries to further radicalize their position. Such radicalization became partly evident in the training and the promotion of a number of militant clerics within the newly established Islamist state. Khomeinist clerics not only participated in the legislative processes and the judiciary, but also formed powerful unelected institutions such as the Guardian Council that functioned as a watchdog over elections and the parliament, ensuring that ultimate political control would remain with the pro-Khomeini *ulama* (Gheissari & Nasr, 2006: pp. 90-91).

Not all Shi'i clerics, however, accepted Khomeini's vision of theocracy in the years following the revo-lution. For instance, Ayatollah Muhammad Kazem Shariatmadari (1904-1985), a pro-constitutionalist senior Shia cleric who publically opposed the referendum against Khomeini's constitution, saw his radical movement as a deviation from true Shi'ism (Arjomand, 1988: p. 140). In response, the regime immediately stripped him of his religious authority and placed him on house arrest, a major affront to the clerical establishment that had never before seen a high-ranking jurist to be deposed by another cleric (Halm, 1991: p. 120). In addition, the take-over of Qom, the country's religious scholarly center, by state-sponsored activist clerics caused many non-Khomeinist *ulama* to keep quiet in fear of retribution, hence successfully containing dissident senior clerics and their followers.

After the death of Khomeini and the election of Hashemi Rafsanjani in 1989, the Islamic Republic saw the emergence of pragmatist clerics, who aimed to strengthen state control over the public sector for the purpose of establishing a functioning bureaucratic state and a realist foreign policy in the post-war period. The post-war push for state consolidation, however, primarily involved major constitutional amendments that not only broadened the juridical and political power of the guardian jurist, with the absolute mandate to rule, but also the ability to qualify for the post without being a *marja*' or high-ranking cleric (Arjomand, 2009: pp. 248-249). The August 1989 appointment of the mid-level ranking cleric, Ali Khamenei, to the position of Supreme Leader therefore introduced a major transformation in the classical function of the Shi'i juristic authority that previously had only recognized the most learned *mujtahid* or jurist as the spiritual head of the community.

By the early 1990s, a loose coalition of dissident Shi'i clerics, seminary students, university stu-dents, intellectuals and middle-class professionals gradually formed a movement to challenge the *status quo*. The presidential election of 1997, won by the reformist cleric, Mohammad Khatami, gave momentum to this new coalition. The impact of the reformist movement on Shi'i Iran can be described in many terms, but one prominent feature is the escalation of political rivalry between reformists, who sought to limit the absolute authority of the Supreme Leader and the conservative clerics, who aimed to maintain political hegemony through po-litical repression and manipulation of the electoral process. The late 1990s became the high point of political factionalism in the post-Khomeini era that, in turn, helped release the Iranian civil society from the tight monopoly of conservatives, especially in the legislative branch of government. In many ways, the reform period brought to life an energetic political movement that emphasized the rule of law and civil society (*Jama'ah Madani*) as prerequisites of an enlightened religious society. It promoted a politi-cal community in which the reformist clerics played a critical role in democratizing the religious debate and opening up a new understanding of Islam.

It was during this period, when Internet entered the political scene. Internet use in Iran was first pro-moted by the government to provide an alternative means of scientific and technological advancement during the troubled economic period that followed the Iran-Iraq War (Rahimi, 2008). Contrary to expectations at the time, the Islamic Republic originally welcomed the Internet by allowing commercial and educational sectors to access it without interference. Whereas in China the technology was largely developed by the state in the form of an intra-governmental communications network, Iran's first experience with the Internet occurred within the university system. Neverthe-less, additional outside links were established by the Iranian Post, Telephone and Telegraph (PTT), which has provided service to both commercial agencies and governmental organizations.

In the religious seminaries, the Internet also brought religious scholars and seminarians, espe-cially clerics independent of the state, a new means to promulgate the Shi'i faith.[2] The emerging technology was seen as a gift to spread the word of the Prophet, and its potential benefit for Islam is immeasurable.[3] Both state and non-state religious centers in seminaries at the shrine cities of Mashad and Qom began to design websites, providing their unique interpretation (*tafsir*) of the Quran on their

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[2]   See the case of Ayatollah Sistani in the next section.
[3]   See http://www.hawzah.net-engdefault.htm and
      http://www.balagh.net.IslamicPropagationOfficeoftheIslamicSeminaryofQom.com.

homepages. As Ali Ansari explains, far from advocating an insular purity, many clerics began to argue that by embracing the new technology and harnessing it to good use as they saw it, a more confident Islamic Revolution would be better able to spread the word (Ansari, 2000: p. 66).

Since the Internet remained (relatively) free of control for most of its development in Iran in the first half of Khatami's presidency, the new medium presented a valuable opportunity to challenge the state for the dissidents in the reformist period. Unlike the print media, which came under heavy censorship in the late 1990s, the new media provided an alternative platform from which the reformists could challenge their adversaries. While politics became more limited to pursuit in the physical spaces of everyday life, where decision-making is constrained by the authoritarian religious state and closures of news agencies are rampant, virtual space opened up new sites of contestation, accommodating diverse dissident groups online.

The famous case of Grand Ayatollah Montazeri, a dissident cleric, is quite illuminating. As a follower of Khomeini who defended a revolutionary theology of clerical guardianship, Montazeri was considered a principal figure and amongst the most revolutionary clerics in the Iranian government in the 1980s; his statements were second in importance to Khomeini, and he remained a major clerical figure in the early years of the revolutionary period. However, in one of the most dramatic episodes in post-revolutionary history that threatened the stability of the Islamic Republic, Montazeri was forced out of his position as the designated heir to the office of the Guardian Jurist by Khomeini on March 28, 1989 (Moin, 2001: p. 277).[4] After his resignation, Montazeri became the most vocal critique of the regime within the clerical establishment. In his later works and sermons, Montazeri boldly defended a conception of spiritual authority with strong elements of democratic principles of human rights. In the 1990s, Montazeri began to challenge the absolutist notion of Islamic governance and advocated a democratic Islamic

Republic based on the notion of *Welayat-e Entekhabi-e Moqayyaadeh* (elected conditional rule), a type of Shi'i clerical authority that has a limited scope of power and is accountable to the people through the electoral process (Kamrava; 2008: p. 163).

In the first term of Khatami's presidency, Montazeri emerged to set a new model of online activism for the younger, mid-level dissident *ulama* that eventually followed the Grand Ayatollah's lead into a virtual battlefield of defining political authority in terms of religious doctrine. In December 2000, Montazeri shocked the conservative establishment when he posted his 600-page memoir on his official website (http://www.montazeri.com), publically questioning some of the early policies of the revolutionary period in the 1980s under the guidance of Ayatollah Khomeini, hence, implicitly criticizing the absolutist political system of "guardianship of the jurist."[5] Despite occasional filtering of his website, Montazeri advanced the propagation of quietist Shi'i jurisprudence and explored various theological issues on cyberspace, serving as a means of communication for the ayatollah to express his personal views on current affairs and politics.[6]

In the reformist period, Montazeri's website represented the most ostensible forum of dissent by a senior cleric to challenge the authority of the Supreme Leader and his security forces that monitored and harassed most of the activities of the more independently minded Shi'i jurists of Qom. Following Montazeri's new conception of theocratic democracy, mid-ranking clerics such as Mohsen Kadivar, Mohammad Mojtahed Shabestari and Hasan Yousefi Eshkevari began to advance a new hermeneutics of theology, known as "Dynamic Jurisprudence" (*fiqh-e puya*), a discourse of Islamic reformism aimed at reinterpreting sacred law in modernist light. With the heavy state censorship of print media, Internet became an alternative platform for the reformist *ulama* to publish their works for a young educated public, mostly born after the 1979 revolution.[7] Likewise, weblogs of the reformist vice president, Mohammad Reza Abtahi

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[4] Several reasons led to Khomeini's decision to denounce him as a successor. The most obvious was Montazeri's support for his son-in-law, Mehdi Hashemi, who had embarrassed Akbar Hashemi-Rafsanjani, the former first speaker of the parliament (*Majlis*) of Iran, by exposing his secret dealings with the Reagan administration during the Iran-Contra Affairs (Basmenji, 2005: p. 180). Rafsanjani's resentment of Montazeri drove a wedge between the two ayatollahs, especially after the execution of Mehdi Hashemi, which essentially prompted Montazeri to be critical of Khomeini's excessive policy. Notwithstanding personal frictions between the two ayatollahs, the main cause, behind Khomeini's decision to remove Montazeri from the position of designated successor was however more ideological, largely evolving around the scope of clerical authority in relations to the right of citizens.

[5] Akbar Ganji's "Republican Manifest" online journal published the memoir. According to an unofficial account, 500,000 prints were made of Ganji's journal.

[6] Montazeri's website has been numerously filtered by the state, according to an article in the statement and opinion section of his website, "Pasokh-e Ayatollah Al-Ozma Montazeri be Chand Porsesh." The site includes his biography, religious statements, scholarly texts, and topics on various issues are exchanged and discussed online. Perhaps the most intriguing section of the website is photos from the early revolutionary period to his house arrest under Khatami's presidency.

[7] For example, see http://www.kadivar.com/Htm/Farsi/Speeches/F-List-82.HTM.

(http://www.webneveshteha.com/), came to represent a new wave of reformist clerical presence in the blogosphere, interactively discussing and debating various issues on politics and religion, along with a growing body of Iranian bloggers, "making Persian one of the leading languages in the blogosphere, and increasing the share of Persian material online" (Khabany & Sreberny, 2009: p. 204; Rahimi, 2008: pp. 48-51).[8]

The political uses of the Internet did not go unnoticed by the regime. In response to various challenges posed by the Internet, the conservative establishment, in particular the judiciary, introduced tougher measures to assert control over cyberspace. Between 2001 and 2003, a censorship regime of filtering net activity, surveillance tactics and arresting web designers and bloggers was enacted, while dissidents of various political leaning continued to navigate around the restrictions through proxies and anti-filter technology, posting their works for the growing reading virtual public. However, by 2003 reformist clerics saw another side to the efficacy of the Internet as a transnational forum of communication: the reemergence of a quietist theology from the wreckage of another Shi'i scholarly center based in the Iraqi city of Najaf, represented by a major senior cleric, Ayatollah Ali Sistani.

III. "Najaf Period"

With the collapse of Saddam Hussein's regime in 2003 and the subsequent revival of Najaf, representing the center of quietist orthodoxy, Shi'i Islam underwent a new development. While reformist clerics and lay intellectuals continued to reinterpret Shi'ism in Iran in a democratic light, Ayatollah Ali Sistani, the most revered Shia cleric in the world based in the Iraqi city of Najaf, emerged as a leading quietist senior cleric to offer an alternative model of leadership. With an expanding religious network and a tight social organization operating on a global basis, coupled with adherence to a Shi'i democratic tradition dating back to the Constitutional Revolution (1906-1911), Sistani's influence over Iraqi democratic politics began to serve as a model to many Iranian reformists who reject Khomeini's ideology of clerical hegemony.[9] This historical phase brings to light an alternative interpretive tradition of Islamic governance advocated by Sistani that carries the quietist ideal of clerical involvement within the limits of serving the community's interest, rather than promoting clerical control over state apparatus. This revival resonates many of the principles advanced during the Iranian Constitutional Revolution of 1905-11 by leading *marja'* in the first decade of the twentieth century, which saw a number of high-ranking clerics like Ayatollahs Mohammad Hussain Na'ini and Mohammad Kazem Khorasani play an active role in the revolution. Based on the democratic concept of social contract, Sistani's post-Baathist politics has evolved around the notion of clerical involvement in the electoral and legislative processes, with the aim of expanding pluralism and citizen participation (Al-Rahim, 2005). Sistani has also been a major advocate of *accountability* of government and the formation of *legitimacy* based on the ideals of *popular sovereignty* as a way to challenge the Coalition Provisional Authority's insular plans for the promotion of a top-down model of democratization for Iraq (Cole, 2006).

In many ways, Sistani's position in the institutionalization of democratic politics in Iraq resembles the democratic views of Ayatollah Na'ini, who, a century earlier, had defended a constitutionalist concept of Shi'i governance against arbitrary rule. He has also been the model of traditional cleric, especially during his pre-2003 leadership period, in which he refrained from all involvement in state affairs (Walbridge, 2001: pp. 237-242). According to such tradition, the role of *ulama* is limited to guiding the Muslim community while securing a social contract between the ruler and the ruled and promoting a just society grounded on Islamic principle. He is responsible in advancing the cause of justice against oppression which best describes a despotic regime that is guided by personal desire of the ruler, while his guidance includes an effort to guard the community from arbitrary power by warning the rulers of their contract with the citizens of their duties to rule with justice. Sistani's role in the democratization of Iraq, in this sense, has been the promotion of a type of government that protects the citizens from arbitrary power and advocacy for a social contract approved and institutionalized by the elected officials representing the people. In this sense, and in contrast to Na'ini, Sistani has not endorsed "a council of guardians to scrutinize the bills that would be introduced in the assembly," a move that demonstrates his dislike of an official clerical institution operating within the state apparatus (Nakash, 2006: p. 9).

As the most senior of the Shi'i clerics, Sistani controls most of the Najaf seminaries, with a large following of students in Iraq and abroad (mostly in

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[8]   For a set of other reformist blogs, see http://www.ketabcheh.malakut.org/. The new wave of clerical presence in the blogosphere also included major state figures, including the Supreme Leader (Bucar & Fazaeli, 2008: p. 404).
[9]   Fieldwork observation, Tehran and Qom, 2005-2008.

Iran, Lebanon, and Syria). These seminaries are funded through religious taxes and since April 2003 have expanded financially with the influx of foreign capital (particularly from Britain, Kuwait, and Iran) to the southern regions of the country (Nasr, 2006: p. 71 and p. 221). The financial infrastructure of the *hawza* (or seminary center) consists of millions of dollars bequeathed to Sistani's foundation in the form of religious taxes and pious endowments (*waqf*), which are public- or private-funded institutions to support the poor or needy.[10] Religious taxes donated by believers (*zakat)* are intended to assist the poor, needy, orphans, travelers, and those in debt. Part of *zakat* is paid to cover the expenses of collecting taxes by religious administrators. *Khums,* on the other hand, is a special annual tax that Shi'is pay of one-fifth the value of their land, silver, gold, jewelry, and profits made from goods found in the sea, which is spent mostly on the needy, orphans, travelers, and on the prophet and his family. However, one-tenth of *khums* is required to be paid to a high-ranking cleric or *marja' at-taqlid* ("The Source of Imitation"), who is the most knowledgeable and pious among the clerics and who the believers (*moqalids*) are expected to imitate in everyday life and follow on religious matters. The role of *marja' at-taqlid* is crucial in the institution of religious taxation since it is under his authority – as the definitive representative (*Na'ib al-Amm*) of the Hidden Imam, which is the twelfth male descendant of the Prophet Muhammad who has been hiding since 874 C.E. and whose return is expected at the end of time – that the collected money is distributed to pious causes.

This huge taxation system is represented and operated by thousands of *wakils,* or officially approved agents, around the world (Reidar 2006; Khalaj, 2006). The *wakil* system is a complex network of agents who interact on a daily basis via phone and the Internet to monitor and administer the ayatollah's financial infrastructure. Sistani's network comprises thousands of members and activists who operate a vast network of social services – ranging from schools (*madrasas*) to pious endowments, from hospitals to libraries – and who interact to administer his funds and represent his views in a number of cities around the world. One may view the *wakil* system as a centralized and hierarchical institution with Najaf as the religious, symbolic authority and Qom as the financial base that Sistani's representatives ultimately depend upon for religious and economic support. However, the *wakil* network is operated in a more decentralized fashion. The religious taxes

are received by a local *wakil* who sends a portion to Qom and distributes the rest in the local region where he administrates his religious center. The *wakils* often have competing philosophies about how to administer religious tax revenue and views differ on how the money should be spent and who should spend it.[11]

Since the fall of Saddam Hussein, the Sistani network has emerged as one of the most organized transnational civic institutions in the Shi'i world, with offices not only throughout Iraq, but also in Afghanistan, Azerbaijan, Bahrain, Britain, Georgia, India, Iran, Kuwait, Lebanon, Pakistan, Saudi Arabia, Syria, Turkey, and the United States. With Sistani's rise to prominence since 2003, the Qom center has established a number of civic institutions, including many libraries, residential housing for seminary students, an eye hospital, and even an astronomy center with a high-tech telescope in Qom and similar public institutions in many Iranian cities such as Ilam, Isfahan, Shiraz, and Tabriz. The seminary students supported by Sistani's center are well paid and are even offered a health insurance plan that covers their families during the period of their studies.

Likely due in part to the good pay and benefits, the Najaf *hawza* grows in popularity, regaining its prestigious status in the Shi'i world since the failed uprising of 1920, when many clerics left the city for Qom. Because it is the religious center of Sistani's network, Najaf is now the hub from which many Sistani centers around Iraq are established and managed. The most important of these facilities is the Najaf center of al-Mortada Islamic Guidance. Built in 2005, it publishes magazines, cultural and religious texts, disseminates religious tapes, and provides a space for the commemoration of the Shi'i rituals of Muharram. Likewise, the Center of Professional Services at Najaf provides training in computer sciences and organizes community competitions for both male and female youths on religious and scientific topics. Besides its community functions, the Global Center of Aalbayaat in Najaf provides intense computer training services for seminary students and Najaf residents, as well as cyber-conferences on religious topics, allowing the students to interact with seminary students from countries ranging from Iran to the United States. A number of Internet centers have been established in cities such as Karbala, Kadhamayn, and Basra.[12] The Internet has increased the size and the prestige of Sistani's social organization worldwide (Nasr, 2006: p. 218). Despite objections

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[10] Fieldwork observation, Najaf and Qom, 2005-2006.

[11] This creates a somewhat decentralized and self-governing network. Often, the local *wakil* is not required to report to another with a higher-ranking status, although all are held accountable by higher-ranking *wakils* and, ultimately, by the grand ayatollah as they are required to keep receipts of money received and spent at their local center.

[12] Fieldwork observation, Karbala and Najaf, 2005.

by a number of high-ranking clerics in Qom about the possibility of spreading vice through the Internet, Sistani was the first *marja'* to take advantage of cyberspace.[13] Sistani approved the establishment of an Internet center in Qom in 1996 after his son-in-law, Shahrestani, introduced the idea to him, and the center has since been the host domain of a number of religious institutions and clerical websites based in Iran. According to one of his aides in Qom, Sistani and his son-in-law believed the Internet served as a way to reach out to Sistani's millions of followers in an age of globalization. They saw no vice in the new technology but only the ability to spread the cause of Shi'ism. They saw Islam as the heart of science and the Internet at its capillary.

The Aalulbayat Global Information and Media Center is the most advanced computer institution in Qom. The center provides one of the most significant and well-known religious websites in the Shi'i community (http://www.al-shia.com), and is the hub for websites dedicated to spreading the word of more than fifty high-ranking clerics, including Ayatollah Ali Khamenei. Sistani's personal website (http://www.sistani.com) offers his followers information ranging from news articles about Sistani to answers to practical questions of a religious nature. In fact, in a small office on the first floor of the center, Sistani receives more than 1,000 questions a day concerning issues ranging from personal piety to politics. Most of the questions are forwarded to Najaf, where Sistani replies and his representatives forward the answer back to Qom; the rest are answered by clerics who are personally approved by Sistani at his center in Qom.

In many ways, Sistani leads one of the most advanced transnational networks in the region through the digital information superhighway. Equally important to Sistani's power is the fact that he is preeminent and the best-financed of the ayatollahs remaining in Najaf, and – by extension – in other parts of Iraq and Iran. By spreading his network via the Internet and acquiring increasing amounts of wealth, Sistani has become a major figure to offer an alternative conception of Shi'i Islam. What Sistani has been able to do in Iraq in a matter of few years, as Ali Reza Behehshti, a leading reformist intellectual and the senior advisor to the failed 2009 presidential candidate, Mir-Hussain Mousavi, describes "is what we have been trying to achieve in Iran since the constitutional revolution of 1905."[14]

Since 2003, a number of reformist clerics and Shi'i activists in Iran have not only created new sites

through Sistani's Aalulbayat Global Information and Media Center in Qom, but also rearticulated their oppositional discourses against the Islamic Republic in light of Sistani's advocacy of democracy in post-Baathist Iraq. This oppositional discourse, however, took on a creative turn with the October 2006 arrest of Ayatollah Hussain Kazemeini Boroujerdi. As an admirer of Sistani, since the early 1990s Boroujerdi has been a leading clerical opponent of Khamenei and his increasing appeal among the religious sections of the Iranian population has posed a major threat to the authorities. It was no surprise that his arrest led to a number of public demonstrations, which were harshly put down by the state. An intriguing phenomenon followed Boroujerdi's arrest; his followers recorded their clashes with the security forces and later posted the footage on *YouTube*. Although the *YouTube* site is blocked in Iran, Boroujerdi's computer-savvy followers managed to email the recording to the ayatollah's followers abroad so they would be able to post it online. Iranian viewers were able to see the video by using various anti-filter programs to access the site. The use of email and mobile phones played a critical role for the way Boroujerdi's followers communicated beyond the supervision of the authorities to attract international sympathy for their cause. What the case of Boroujerdi demonstrated was how the use of information technology could entail the potential for a new phase in the conflict between reformist and pro-government clerics. The new phase became manifest in Iran's most contentious political event: the 2009 presidential elections.

IV. "Green Period"

The protests that rocked the streets of Tehran and other major cities, triggered by accusations of fraud in the June 2009 presidential elections, marked a new development of online dissident activism. The "Green Wave," a coalition of opposition groups and factions led by reformist candidates, Mehdi Karoubi (a mid-level cleric) and Mir-Hussain Mousavi, along with former president, Muhammad Khatami, rose to challenge not merely the election results but the lack of transparency and accountability under a theocratic state that increasingly has become dependent on the Revolutionary Guards to maintain power. After thirty years of revolution, the Islamic Republic now faced a major crisis of legitimacy. However, in subsequent crackdowns on the anti-government demonstrators, such crisis became more about the ideological rationale of the theocratic state than the reelection of Ahmadinejad, seen by many dissidents as one among many of Khamenei's non-clerical figures in monopolizing power.

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[13] Interview, Qom, August, 2006.
[14] Interview, Tehran, August 16, 2008.

The clerical establishment, accordingly, played an integral role in this historic crisis. In an unprecedented move shortly after the elections, a number of senior clerical figures publically sided with the protesters and openly took issue with the hardliner clerics in power, including the Supreme Leader, for the way the situation was handled. In many important ways, the events that followed the elections revealed that Shi'i opposition extended beyond the mid-ranking clerical circles, forming a *de facto* hierocratic coalition against the increasingly repressive state led by Khamenei. As the great bulk of the highest-ranking clergy articulated their opposition against the crackdowns and, especially, questioned Khamenei's ability to rule as a just leader, a fissure within the clerical establishment began to open wide, a rift that became manifest largely in cyberspace.

The Internet, in this sense, provided a powerful medium for the discontented grand ayatollahs to display their stance against what they perceived as excessive use of state power in the name of Islam. While *YouTube* and *Twitter* were favored by anti-government activists to post videos of demonstrations and police brutality, reformist *ulama* posted statements and correspondences on their official websites and *Facebook* as a way to reach out to their followers and a disgruntled Iranian public. In many ways, the sudden popularity of social networking domains prior to the elections brought an added interest in sites such as *Facebook* and, to a lesser extent, *Twitter*. When in February 2009 the Ministry of Information and Ministry of Islamic Guidance, under the supervision of the Supreme Leader, unblocked *Facebook* (along with other social networking websites) the aim was to encourage young voters to participate in the June elections (Gheytanchi and Rahimi, 2009). The move, however, provided a new opportunity for dissident groups, especially students and women activists, to organize discussion groups and political meetings on unblocked sites, while using the easing of cyber censorship to blog on human right causes and the release of political prisoners.

The pre-election Internet frenzy did not go unnoticed by the presidential candidates. The reformist candidate, Mir-Hussain Mousavi, the heir to former president Khatami, famously used his *Facebook* site to post the latest statements while his followers interactively organized off-line meetings on various *Facebook* sites.[15] Meanwhile, prominent reformists like Mohammed Ali Abtahi, Karim Arghand-Pour,

Said Shariati interactively engaged with the reformist supporters to discuss topics such as foreign policy and economic reform. On *Facebook*, the pro-reform supporters would post speeches of their candidates and invite each other to communicate their political views and organize meetings via SMS, *Twitter* (recently a popular device among the young), and blogs.[16]

In this respect, the post-election unrest, and the role of the new technology in the process, provided a new opportunity for reformist clerics to redefine Islamic political authority. On a political theoretical level, the new belligerent Shi'i opposition saw the Islamic Republic in no longer maintaining legitimacy (*mashru'iyyat*) because of its harsh and unjust reaction to those who demanded a recount of the votes.[17] Imam Ali, the cousin and son-in-law of Muhammad who is Shi'i Islam's fourth imam, had ruled with justice and not brute force. Ali had based his government on tolerance of opposition, which was necessary for him to rule the Muslim community efficiently and wisely. Ali had distinguished *mashru'iyyat* from power (*hukumat*), always making sure that the former would never be sacrificed for the latter. Ali, who ruled the Islamic world from 656-61, has served a model of just rule for Shi'is through the centuries. But what the Islamic Republic had demonstrated in the aftermath of elections was how military repression could be justified in the name of law and the defense of Islam.

The Grand Ayatollah Yusef Sanei, one of Qom's leading reformist clerics, emerged as one of the first *ulama* to express such theology of discontent in cyberspace. On his website, Sanei praised the street demonstrations and stated:

> "*I hope that the path of the Iranian people to continue their legal protest could be open*" (Theodoulou, 2009).

After the elections and the ensuing state violence, Sanei warned the hardliners online against state repression and urged the regime to refrain from "sin" by violating citizens' rights to peaceful demonstrations. In one of his famous remarks on his website, Sanei described the public trial of protesters as an "oppressive" organ of a tyrannical state.[18] Meanwhile, Ayatollah Montazeri posted the harshest critique of the regime on his website. In a statement, Montazeri argued that the Islamic Republic, in its current post-election 2009 form, is neither a

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[15] Fieldwork observation, Tehran, June 2-10, 2009. For Mousavi's Facebook site, see http://www.facebook.com/pages/Mir-Hossein-Mousavi-/45061919453.
[16] Fieldwork observation, Tehran, May-June, 2009.
[17] Field observation and interviews, Qom and Tehran, July-August, 2009.
[18] See http://www.saanei.org/?view=01,00,01,00,0.

republic nor a guardianship of the Islamic jurists, rather a "government of a military guardianship."[19] Montazeri's accusation of the militarization of the theocratic regime resembled Grand Ayatollah Bayat-Zanjani's objection, also posted on his official website (http://www.bayatzanjani.net/), that the Islamic Republic resembles more the political system of Caliphate (known to Shi'is for its brute military force) than the regime of "Imamate" based on accountability and justice, as exemplified by Imam Ali.[20] In a bold statement posted online and discussed in various Shi'i blogs a month after the elections, the Association of Researchers and Teachers of Qom, an influential clerical association, called the reelection of the incumbent president illegitimate and questioned the Guardian Council for its political factionalism in the electoral process (Abdo, 2009).

The most devastating statement, however, appeared when an anonymous letter written by a group of clerics, posted on various reformist websites, including various sites on *Facebook*, demanded the Spiritual Leader's immediate removal (Fathi and Worth, 2009). The 11-page letter accused Ayatollah Khamenei to turn the Islamic Republic into a military state, run by Iranian Revolutionary Guard Corps (IRGC), which acted as his own private guard. The letter also shared the views of many like-minded reformist clerics, including Ayatollahs Seyyed Jalaledin Taheri and Abdukarim Mousavi Ardebili, who went online to express their discontent with the post-election crackdown on the protesters.[21] Behind these taboo-breaking oppositional outbreaks brew a growing realization that the Islamic Republic is undergoing a major crisis of legitimacy and that the Internet has served as a virtual public sphere for the oppositional clerics to (re)produce their critical discourses, to question the exclusive divine authority of the ruling clerical institutions and expose the tyrannical nature of theocratic authoritarianism.

What the recent "Green Period" has demonstrated is therefore the increasing rift among the ranks of clergy and, more importantly, the rapture of new critical discourses of Shi'i spiritual authority grounded on the ethos of accountability and justice. The Internet, in many ways, has paved the way for the advent of such virtual *ulama* who continue to reinterpret aspects of Shi'i jurisprudence in order to redefine what it means to be a Shi'i living in the period of Occultation, and under the tyrannical rule of insular theocratic authoritarianism.

V. Virtual Islam & Multiple Public(s)

With over thirty million Internet users and one of the fastest growing communities of computer experts in the Middle East, Iran provides an intriguing opportunity to observe the impact of the emerging technology on politics and society.[22] In the case of religion, the implications have been multifaceted and played out in ways that create various public spaces where reformulation of sacred identity through dissent can be articulated. This study, in particular, focused on the clerical faction and how theological discourses of political legitimacy have undergone major transformation in the course of dissemination, (re)production and consumption of ideas that pose a challenge for authoritarian regime. It mainly argued that the Internet served as a distinct discursive way for Shi'i clerics to (re)conceptualize traditional authority in the construction of a virtual public sphere, an unofficial public over which the state exerts only a weak hold due to an ineffective means of direct control.

Ironically, as the dissident clerics increasingly voice their opposition to the authoritarian regime, in order to restore a pristine Islam, the more they accelerate the fragmentation and dislocation of traditional authority, providing new conception(s) of Shi'ism to an expanding virtual community, fluid and revisable through interactions in the spaces of other publics, physical and virtual. From the reform to the Green movements, what the dissident *ulama* have produced are cyberspaces of dissent marked by a pluralism and conflict that continually subvert the received notions of spiritual authority and singularity of interpretation in the context of political realities. Such diversity of Shi'i websites hardly disseminate the same message, but serve as arenas for interactive networking and communication in the birth of new "Islamic public sphere(s)," which are multi-vocal and irreducible discursive processes (El-Nawawy and Khamis, 2009). This is what Eickelman and Piscatori call the "objectification of Islam," a process of increased "scrutiny of received ideas as Muslims realize the diversity of [the voices in their religion] and the multiple 'Islamic' ways of doing things" (Eickelman and Piscatori, 2004: p. 38).

The term "virtual *ulama*" therefore identifies a type of clerical activism that produces disembodied discourses operating in multiple public spaces of virtual reality.

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[19] See http://www.pbs.org/wgbh/pages/frontline/tehranbureau/2009/09/ayatollah-watch.html.
[20] Ibid.
[21] For Ardebili's statements, see July 26 edition of http://www.norooznews.org.
[22] "Dast resi 32 million Iran be Internet" http://www.tehrooz.com, December 19, 2009, vol 1, no. 226.

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Hüseyin Bağçı
Zeitgeist. Global Politics and Turkey
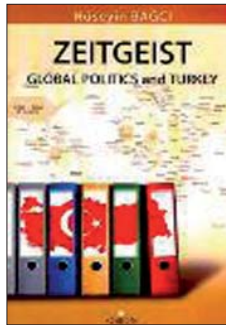
Bağçı, Hüseyin: Zeitgeist. Global Politics and Turkey, Orion, Ankara 2008, 653 S., ISBN: 978-9944-769-13-6

Womöglich ist es der Art des Buches geschuldet, dass es bislang kaum von der deutschen politikwissenschaftlichen Türkeiforschung beachtet wurde, denn eine Publikation dieser Art ist hier zu Lande auch kaum mehr zu finden: In „Zeitgeist. Global Politics and Turkey" veröffentlichte der prominente türkische Politikwissenschaftler Hüseyin Bağçı bereits 2008 auf über 650 Seiten ganze 189 Kommentare zur Entwicklung der türkischen und internationalen Politik, die er zwischen 1998 und 2001 sowie zwischen 2005 und 2007 in englischsprachigen türkischen Zeitungen veröffentlichen ließ.

Denn wer interessiert sich schon für längst vergangene tagespolitischen Ansichten und Meinungen eines wenngleich auch namhaften Beobachters eines Landes, dessen Demokratisierung und Europäisierung als ein Glücksspiel erscheint? Und selbst als angehender Türkeiforscher muss man sich zunächst fragen, welchen wissenschaftlichen Mehrwert das Buch besitzt, das der Autor mit den Worten anpreist:

"In this book you would find the world and Turkey from the perspective of Bağçı." (S. vii)

Aber: Bağçıs Selbstbewusstsein ist berechtigt. Seit mehr als 20 Jahren ist er Wissenschaftler und Dozent an der Middle East Technical University in Ankara, nachdem er, ausgestattet mit einem Begabtenstipendium der Konrad-Adenauer-Stiftung, an der Universität Bonn studierte und dort promovierte. Seine bisherigen Publikationen betreffen das internationale System in seiner Entwicklung seit Ende des Ost-West-Konfliktes, insbesondere den Wiederaufstieg Deutschlands, den Krisenraum Balkan und die wechselvolle Genese der Türkei im 20. Jahrhundert.

Zudem führten seine zahlreichen Mitgliedschaften in Wissenschaftsverbänden sowie seine Fellows-

hips in Instituten und Think Tanks weltweit zu einem umtriebigen Leben, zahlreichen Auszeichnungen und Veröffentlichungen. Dem Leser dieses jüngsten Buches sollen diese Anstrengungen nun also zu Gute kommen, denn:

„As a ‚mobile Professor' […] I participated in more than twenty international conferences every year and always try to learn new things. Now, I think it is time to share all of those experiences with my reader." (S. vii)

Es sind solch offene Worte, die die Aufmerksamkeit des Lesers erhöhen, weil sie ungewohnt sind und den Predigten mancher Professoren für saubere Wissenschaftlichkeit und objektives Forschertum zu widersprechen scheinen. Doch Bağçı will mit dem Buch nicht die politische Theorie vorantreiben, sondern vielmehr mit dem Leser in einen Dialog über die politische Entwicklung der Türkei und des internationalen Systems in den vergangenen zwei Dekaden treten.

„[I]n writing these articles it was important for me to convey my own interpretation of domestic and international developments immediately after their happening. I believe that those essays reflect the zeitgeist (spirit of time) of the last ten years." (S. vi)

Bağçıs Offenheit zeigt sich so immer wieder in den Kommentaren, die er hinterließ. Ein deutliches, offenes und zugleich realistisches Eingeständnis des Wissenschaftlers findet sich dabei gleich zu Beginn: So schrieb er 1999 über den Pessimismus und die politische Apathie von Jugendlichen in der Türkei zwischen den Jahren des Putsches vom 28. Februar 1997 und der harten Wirtschaftskrise, die das Land 2001 traf:

„The real problem is that Turkish youth is misdirected, and they do not have any goals. I can only point out what the problems are; I cannot suggest any solutions. This is the real tragedy of the intellectuals and academics." (S. 17)

Die Stärke von Bağçıs Buch liegt aber nicht nur in den ehrlichen Worten, die er an seine damaligen und eben auch heutigen Leser richtet. Vielmehr ist das Buch ein Kaleidoskop der wichtigsten politischen Entwicklungen, die die Türkei in den vergangenen Jahrzehnten innen- und außenpolitisch betrafen; nicht wie zahlreiche andere Arbeiten, die die Geschichte deskriptiv unter einer bestimmten Fragestellung repetieren, sondern ein Datensatz quasi aus erster Hand. Bağçı wirkt wie

eine Quelle, die den Leser mit Gedanken und Emotionen, Ideen und Enttäuschungen versorgt und ihm so ein Gefühl für diese wechselvollen Jahre türkischer politischer Entwicklung verschafft – von einer Art Bananenrepublik der 1990er zwischen den Konfliktherden Balkan und Nahost zu einem EU-Beitrittskandidaten und einer zunehmend global aktiven Regionalmacht heute. Die Lektüre der Essays und Kommentare ermöglicht es also, das Bild eines Landes zu zeichnen, das noch in den 1990er Jahren geprägt war von einem politischen System zerstrittener und gleichwohl opportunistischer Parteien und Politiker, einem mächtigen, quasi autonomen Militär, ethnischen, religiösen und sozialen Konflikten, sowie einer höchst distanzierten politischen Kultur in der Gesellschaft. In dieser Zeit forderte Bağçı „visionäre politische Führungspersonen", die eine schnelle Öffnung des Landes im Sinne Karl Poppers herbeiführen müssten und der wachsenden Jugend eine Zukunftsperspektive bieten müsse. (S. 37) Die erneut erkrankte Türkei brauchte eine „by-pass operation" (S. 46).

Bağçıs Buch ist voller Personen und Situationen, „Events" der Mikro- und Mesoebene, an die man bei der Lektüre erinnert wird: etwa von Abdullah Öcalans Vertreibung aus Syrien nach Russland, Italien und Griechenland bis zu seiner spektakulären Festnahme 1999 in Kenia (S. 10); oder der Fall der 1999 gewählten Abgeordneten Merve Kavakcı, die wegen ihres Kopftuches verhindert war, den Eid auf ihr Mandat abzulegen und anschließend ihre türkische Staatsbürgerschaft verlor (S. 15) – heute ist sie Professorin an der George Washington University in Harvard; Hans-Ulrich Klose, damals Bundestagsvizepräsident, der die Türkei 1998 als Land bezeichnete, das Bedrohung produziere – eine Vorstellung, die auch Helmut Kohl bei seiner Entscheidung gegen eine EU-Mitgliedschaft des Landes teilte (S. 280); Weltbank-Vizepräsident Kemal Dervişi, den Bülent Ecevit 1999 am Höhepunkt der Wirtschaftskrise, die die Türkei fast in den Staatsbankrott getrieben hätte, in sein Kabinett holte und der sodann nahezu Unmögliches leistete – Bağçı: „the imported saviour of Turkey's future" (S. 45); oder das Trio aus Außenminister İsmail Cem, Staatsminister Mesut Yılmaz und dem ersten EU-Beauftragten Volkan Vural, das „Segel setzte in das 21. Jahrhundert",[1] in dem die Türkei EU-Mitglied und durch vertrauensvolle Kooperationen zu einer stabilisierenden und demokratischen Regionalmacht werden will (S. 198ff.). Gerade in den Essays, die Bağçı den Türkei-EU-Beziehungen widmete, merkt der Leser, wie der Autor – und mit ihm das Land – mit dem

Traum haderte, eines Tages in der EU anzukommen: Man wurde in Luxemburg 1997 aufs Abstellgleis verwiesen, nahm während der harten Wirtschaftskrise durch den Entschluss von Helsinki 2001 wieder kräftig Fahrt auf, der enttäuschende Lokführer Ecevit wurde 2002 durch den agilen, ambivalenten Recep Tayyıp Erdoğan ersetzt, setzte mit viel Schwung die Reformen von 2002 und 2003 um und befindet sich seither auf kurviger Fahrt durch das gefährliche und karge Gebirge der Beitrittsverhandlungen, die den Zug zeitweise fast zum Stehen bringen und ihre Insassen nahezu verzweifeln lassen. Egal ob nun in den Beziehungen zur EU oder in denen zu den USA, zu Russland oder anderen globalen Mächten, ob nun zu den Problemen und Herausforderungen türkischer Außenpolitik auf dem Balkan, im Kaukasus, im Nahen und Mittleren Osten, zu Armenien und Aserbaidschan, Griechenland und Zypern, Bağçı zeigt in den Aufsätzen nicht nur seine Expertise in allen möglichen außenpolitischen Fragestellungen und Zusammenhängen. Sein Buch verdeutlicht insgesamt gerade auch die Schwierigkeiten außenpolitischer Schritte und Entscheidungen *en miniature*. Es entsteht der Eindruck, dass sich Probleme kaum lösen lassen, außenpolitische Interessen kaum gänzlich erfüllt und Ziele kaum vollends erreicht werden können. Die Lektüre bestärkt das Verständnis von (Außen-) Politik als Prozess, an dem zahlreiche Akteure aus diversen Motiven, mit verschiedenen Ambitionen und unterschiedlichem Engagement teilnehmen, und dessen Ergebnisse letztlich unvorhersehbar sind. „Zeitgeist" ist somit das Logbuch türkischer Außenpolitik der vergangenen 15 Jahre. Es beschreibt, was gewesen ist, lässt aber weitgehend offen, wohin der Weg der Türkei führt. So verhält es sich komplementär zum Buch der „Strategischen Tiefe", das der Politikwissenschaftler Ahmet Davutoğlu 2001 publizierte, darin eine Strategie für die türkische Außenpolitik im 21. Jahrhundert entwarf,[2] welche der außenpolitische Chefberater der AKP-Regierung und amtierende Außenminister Ahmet Davutoğlu derzeit umzusetzen versucht. Kernkomponenten dieser gegenwärtigen außenpolitischen Strategie der Türkei sind die „Null-Problem-Politik" mit allen Nachbarn zur Stärkung der eigenen Position in der Region, aber auch weiterhin die enge Anbindung der Türkei an die EU.

Trotz ihrer zweifelhaften politischen Vergangenheit, der auch Bağçı kritisch gegenübersteht, gebührt seines Erachtens den „architects of this grand, strategic decision" für die EU-Beitrittsverhandlungen, Recep Tayyıp Erdoğan, Abdullah Gül und Ahmet Davutoğlu ein Platz in der Geschichte (S. 235). Und je mehr Erdoğan, Gül und Da-

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[1] Vgl. Cem, Ismail: Turkey setting sail to the 21st century, in: *Perceptions*, 2 (3), September/November 1997, S. 6-9.
[2] Vgl. Davutoğlu, Ahmet: Stratejik derinlik. Türkiye'nin uluslararası konumu, Istanbul: Küre 2001.

vutoğlu die Welt bereisten, desto mehr erhielte die Türkei „an image of political and economic stability", das dem Land nur helfe, sich als moderner, globaler Akteur zu etablieren (S. 241ff.). Bağçı begrüßt, dass die alte reaktive Außenpolitik des „wait and see" nun durch die pro-aktive Strategie der AKP abgelöst sei, wobei diese sich auf keine Abenteuer einlasse (S. 274). Wie auch Davutoğlu teilt er seit langem die Einschätzung, dass sich das globale System seit Ende des Ost-West-Konfliktes wieder nach geopolitischen und geoökonomischen Faktoren konfiguriere.[3] Wie auch Davutoğlu diskutiert er die Gefahr eines neuen langen Krieges zwischen Kulturen, insbesondere des Westens gegen die islamische Welt (Kap. 9). Und wie Davutoğlu erkennt er die besondere Rolle der Türkei, die nicht einfach als Brücke zwischen Ost und West fungieren könne, sondern „rather acts like a piston which can move to either side with all its historical, cultural, political, and economic advantages." (S. 638)

Die EU sollte sich dieser Rolle der Türkei bewusst werden, für deren Integration Bağçı besonders viel empfindet. Beide könnten voneinander profitieren, schenke die EU doch Hoffnung auf Stabilität, Frieden und Wohlstand, wohingegen ihr eine moderne, demokratische Türkei neue, womöglich ungeahnte Handlungsspielräume und mehr Gewicht in der Welt verschaffen könnte. Sein hoffnungsvoller Appell lautet daher an exponierter Stelle:

> *„[W]e do know, at the end, the EU will continue the process because it has a rational mind. Cutting off the relations with Turkey would be the biggest mistake ever made by the EU. The spirit of time should not be thinking in small terms but rather in grand strategic terms."* (S. 429)

Ludwig Schulz, M. A.

Mona Hanafi El Siofi
Der Westen – ein Sodom und Gomorrah?
Westliche Frauen und Männer im Fokus ägyptischer Musliminnen.

Hanafi El Siofi, Mona: Der Westen – ein Sodom und Gomorrah? Westliche Frauen und Männer im Fokus ägyptischer Musliminnen, Ulrike Helmer Verlag, Frankfurt 2009, 212 S., ISBN 978-3-897-41281-1

Dass Projektionen des so genannten „Anderen" mit dessen eigenen Vorstellungen von sich selbst wenig gemein haben, kann als anthropologische Universalie bezeichnet werden. Vorurteile und Stereotypen determinieren den Kontakt zwischen Angehörigen unterschiedlicher Gruppen, gleich, ob diese sich ethnisch, religiös, sozial, politisch, ökonomisch oder anhand anderer kollektiver Markierungen definieren.

Man nimmt den „Anderen" als fremd wahr und verbindet mit dieser Fremdheit recht unterschiedliche Gefühle, die von rückhaltloser Begeisterung bis zu unreflektierter Ablehnung reichen. Negative Konnotationen überwiegen in der Regel, doch selten sind sie uneingeschränkt. Meist lässt sich eine Mischung aus positiven und negativen Zuschreibungen identifizieren, die situativ zitiert werden, um den eigenen Standpunkt zu unterstreichen oder um spezifische Handlungen argumentativ zu begründen.

Von allen Formen des „Othering" werden diejenigen, die entlang der Denkfiguren „Orient" und „Okzident" artikuliert werden, als besonders brisant wahrgenommen. Dies resultiert aus der verflochtenen Geschichte der beiden kulturellen Räume, aber auch aus aktuellen Dynamiken.

„Orientalismus" und „Okzidentalismus" stellen historisch aufgeladene komplementäre Deutungsmuster dar, die zu Beginn des 21. Jahrhunderts, von allem nach den Ereignissen des 11. September 2001, eine beunruhigende neue Wirkmächtigkeit entfalten. Obgleich sich beide gegenseitig bedingen, wurde ihnen in den Sozialwissenschaften recht unterschiedliche Aufmerksamkeit zuteil. Während der „Orientalismus" seit dem Erscheinen von Edward Saids einflussreichem gleichnamigem Werk als Forschungsthema ungebrochen populär ist, stellen Studien zum „Okzidentalismus" ein Desiderat dar.

Die Wissenschaftlerin Mona Hanafi El Siofi hat eine dieser dringend benötigten Studien durchgeführt und ihre Ergebnisse jetzt im Ulrike Helmer Verlag publiziert. Die Autorin hat einen bikulturellen Hintergrund und eine Vielzahl von Fächern studiert, unter andere Islamwissenschaften, Philosophie, Soziologie und Ethnologie, was sie vielleicht in besonderer Weise zu den differenzierten Analysen befähigt, die sich durch das Buch hindurch ziehen.

Im Zentrum stehen fünfundzwanzig Frauen aus Kairo, die ausnahmslos der Mittelschicht und damit der Gruppe von Akteuren angehören, die man mit

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[3] Vgl. auch Bağçı, Hüseyin: Changing Geopolitics and Turkish Foreign Policy, Internationales Institut Liberale Politik, Wien 2009.

Fug und Recht als die dynamischste der ägyptischen Gesellschaft bezeichnen kann. Die Hälfte von ihnen war zum Zeitpunkt der Forschung zwischen zwanzig und neunundzwanzig Jahre alt, vier waren älter als vierzig. Fünf Frauen bezeichneten sich als homosexuell und fast alle waren kinderlos. Drei waren Mütter von zwei Kindern, eine hatte ein Kind. Diese Informationen, von der Autorin neben anderen aufgeführt, zeigen, dass das Sample sehr speziell zusammengesetzt ist und Generalisierungen schwierig macht. Ob die Vielfältigkeit von Antworten auf Mona Hanafi El Siofis Fragen in irgendeiner Weise für Frauen der ägyptischen Mittelschicht repräsentativ ist, lässt sich daher nicht ohne weiteres verifizieren.

Trotz dieser Einschränkungen ist die Studie aus mehreren Gründen äußerst aufschlussreich: Die Frauen stellen keineswegs eine homogene Gruppe dar, sondern vertreten vor allem im Hinblick auf ihre Haltung zum Islam und zu religiösen Ideen sehr unterschiedliche Positionen. Diese Heterogenität potenziert sich zusätzlich durch eine von Hanafi El Siofi gut herausgearbeitete Ambivalenz zum „Westen". Die im Titel angesprochene Vorstellung eines verderbten Sodom und Gomorrah, die nicht nur in den ägyptischen Medien gern beschworen wird, teilten die Interviewten keineswegs einhellig.

Vielmehr artikulierten sie jeweils eigene, auch aus ihren Biographien resultierende Bewertungen, die manchmal tendenziell positiv oder negativ ausfielen, häufig aber auch zwischen Faszination und Ablehnung schwankten. Sehr schön wird aus den zitierten Passagen ersichtlich, dass die okzidentalistischen Imaginationen der Selbstvergewisserung dienen, dass die Frauen beispielsweise das westliche Paradigma des autonomen Individuums als Spiegel dessen nutzen, was sie nicht sein wollten. Die Beschwörung des Zerrbildes der konkurrenzorientierten egoistischen Westlerin erlaubt ihnen, sich selbst als kollektivistisch, familienorientiert, warmherzig und sozial zu definieren und aus diesen Selbstzuschreibungen Selbstbewusstsein zu beziehen.

Andererseits fungiert die Vorstellung egalitärer westlicher Geschlechterverhältnisse aber auch als Ausgangspunkt der Kritik bestehender Verhältnisse innerhalb der eigenen Gesellschaft. Bezeichnenderweise hielten viele der Interviewten „westliche" Männer in gewisser Hinsicht für ideale Heiratspartner, da sie glaubten, sie seien partnerschaftlicher als ägyptische Männer und unterstützten ihre Frauen im Haushalt und bei der Betreuung der Kinder. Als Feministin wollte sich keine der

Interviewten bezeichnen, obwohl einigen von ihnen eine Veränderung der Geschlechterbeziehungen am Herzen lag und Ägypten zu den Ländern gehört, in denen Frauenrechtsbewegungen über eine lange Tradition verfügen. Heute, so Hanafi El Siofi, scheint der Feminismus, auch wegen des Einflusses islamistischer Frauenorganisationen, weitgehend diskreditiert zu sein.

Mona Hanafi El Siofi kontextualisiert ihre soziologische Studie vor dem Hintergrund der ägyptischen Geschichte und verweist auf relevante Themen, wie die Ansätze einer neuen islamischen Hermeneutik, die Geschlechtergerechtigkeit mit Hilfe einer Reinterpreation von Koran und Sunna zu begründen sucht.

Das Buch stellt eine solide sozialanthropologische Forschung dar und vermittelt einen guten Einblick in eine Welt, die der deutschen Leserin gleichermaßen fremd als auch bekannt vorkommt. Der Kampf um gesellschaftliche Teilhabe von Frauen ist weder in Ägypten, noch in Deutschland abgeschlossen, und die Ursachen von Diskriminierung wurzeln in beiden Ländern auch in den privaten Strukturen. Ob Frauen Männern gleich, gleichgestellt oder gleichberechtigt sind, darüber diskutiert man sowohl in Ägypten als auch in Deutschland schon seit einhundert Jahren.

Die ägyptische Frauenbewegung, darauf weist Hanafi El Siofi hin, hat es verstanden, ihren eigenen Weg zu gehen und sich nicht von okzidentalen Frauenrechtlerinnen vereinnahmen oder dominieren zu lassen. Auch heute entwickeln ägyptische Frauen ihre eigenen Visionen in eigener Regie. Dass man andernorts diejenigen von ihnen, die den Regeln des Islam folgen oder ihren Körper bedecken, *per se* als unterdrückt und unemanzipiert bezeichnet, würden sie sich mit Recht verbitten.

Möchte man „Orientalismus" und „Okzidentalismus" hinter sich lassen und sich auf „Augenhöhe" begegnen, so die implizite Botschaft des Buches, muss Differenz anerkannt werden, muss man verstehen können, was andere bewegt. Die Lebensentwürfe von Frauen sind unterschiedlich, und es gibt keinen normierten Weg zum Glück. Weder im so genannten „Westen", noch in den anderen Himmelsrichtungen. Mona Hanafi El Siofi hat mit ihrer Publikation einen Beitrag dazu geleistet, dass das Verstehen und die Anerkennung dieser einfachen Wahrheit möglich sein können.

Prof. Dr. Susanne Schröter
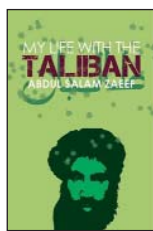
Salam, Zaeff Abdul: My Life With The Taliban, Hurst, London 2010, pp. 360, ISBN: 978-1-849-04026-6: This is the autobiography of Abdul Salam Zaeef, a senior former member of the Taliban. The book provides an insight into the Pashtun village communities that are the Taliban's bedrock and helps to explain what drives men like Zaeef to take up arms against the foreigners

Pfau, Ruth: Und hätte die Liebe nicht. 50 Jahre in Pakistan, Herder, Freiburg 2010, 220 S., ISBN: 978-3-451-30297-8: Ruth Pfau, Lepraärztin und Ordensfrau war, im Untergrund in Afghanistan, als das Land noch von den Russen besetzt war und sie kennt Pakistan von innen und außen wie kaum jemand anderer.

Jamal, Mahmood (ed.): Islamic Mystical Poetry. Sufi Verse from the Early Mystics to Rumi, Penguin Group, New York 2010, pp. 400, ISBN: 978-0-14042473-7: Poetry has been the most powerful vehicle for conveying Sufism the mystical dimension of Islam from the early flowering of mystical Islam in Baghdad to the later heights it reached through Jalaluddin Rumi (d. 1273) and Jami (d. 1492). Starting with the writings of eighth-century mystics, this anthology moves through the twelfth century with Ibn Arabi in Spain and Ibn Farid of Cairo, then onto the Maghrib prayer of Abul Ala Al Maari, Aynul Quddat Hamddhani of Persia, Yunus Emre of Turkey in the fourteenth century, and many others, culminating in the early twentieth century. The result is a soaring collection of verse from across the Islamic world and over centuries of inspiration.
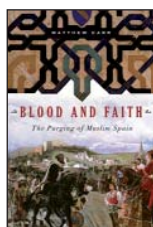
Carr, Matthew: Blood and Faith. The Purging of Muslim Spain, 1492-1614, Hurst, London 2010, pp. 378, ISBN: 978-1-849-04027-3: In 1609, Philip III signed an edict denouncing the Muslims of Spain as heretics and the entire population was given three days to leave. In the exodus, some 300,000 Muslims were deported and by 1614 Spain had successfully implemented the largest act of ethnic cleansing in European history. Blood and Faith is journalist Matthew Carr's riveting chronicle of this historical episode.
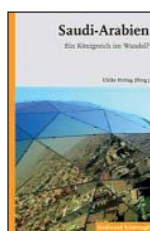
Freitag, Ulrike (Hrsg.): Saudi-Arabien. Ein Königreich im Wandel? Ferdinand Schöningh, Paderborn 2010, 322 S., ISBN: 978-3-506-76932-9: Der Band informiert über die vielfältigen Veränderungsprozesse im gegenwärtigen Saudi-Arabien. Das Land spielt aufgrund seines enormen Ölreichtums sowie seines zunehmenden regionalen Gewichts eine immer bedeutendere Rolle auf der politischen Weltkarte. Doch Schlagworte wie Reichtum, Repression und religiöser Extremismus bestimmen nach wie vor das Bild des Königreichs in der Öffentlichkeit. Dynamische Diskussionen, die momentan innerhalb der saudischen Gesellschaft geführt werden, bleiben häufig unberücksichtigt.

Schiffauer, Werner: Nach dem Islamismus. Eine Ethnographie der Islamischen Gemeinschaft Milli Görüs, Suhrkamp Verlag, Berlin 2010, 391 S., ISBN: 978-3-518-12570-0: Die Islamische Gemeinde Milli Görüs gehört zu den umstrittensten Organisationen türkischer Einwanderer in Deutschland. Gestützt auf mehrjährige Feldforschung, zeichnet Werner Schiffauer ein differenziertes Bild von der Entwicklung dieser Gemeinde. Im Zentrum steht der Versuch einer zweiten Generation, sich mit dem islamistischen Erbe der Gründergeneration auseinanderzusetzen und die Rolle von Islam und Politik in der Bundesrepublik neu zu bestimmen. Der Autor lehrt Vergleichende Kultur- und Sozialanthropologie an der Europa-Universität Viadrina in Frankfurt/Oder. Seine Forschungsschwerpunkte sind Migration, Strömungen im europäischen Islam sowie heterogene Gesellschaften.

Katbi, Ghaida Khadna: Islamic Land Tax - Al-Kharaj: From the Islamic Conquests to the Abbasid Period, I.B. Tauris, London 2010, pp. 352, ISBN: 978-1-848-85063-7: In this survey of the institution of al-Kharaj - land tax in Islam - Ghaida Khazna Katbi provides a detailed history of a practice which evolved from an exigency of conquest into an essential pillar of the early Islamic state. At the time of the Muslim conquests, al-Kharaj constituted a tax on lands owned by non-Muslims. It gradually developed into an instrument of state under 'Umar bin al-Khattab and reached its most refined and complex form under the Abbasids.

Internationale Konferenz
Formation of Normative Orders in the Islamic World

Datum: 7. - 9. Mai 2010
Ort: Frankfurt am Main
Veranstalter: Goethe-Universität Frankfurt

Die Konferenz leistet einen Beitrag zum Prozess des gegenseitigen akademischen Verstehens zwischen Orient und Okzident. Sie bringt Wissenschaftler aus zahlreichen Ländern und Disziplinen zusammen, um die interdisziplinäre Diskussion zu unterstützen und auch um das Verständnis des Islam in Europa, Südostasien und dem Mittleren Osten zu vertiefen. Es ist den Veranstaltern ein Anliegen, am Konferenzort Frankfurt anti-islamischen und anti-muslimischen Vorurteilen etwas entgegenzuhalten, indem wir an der Entwicklung eines interreligiösen Dialogs zur globalen Gerechtigkeit, zu Menschenrechten und Frieden mitwirken.

Weitere Informationen unter **www.normativeorders.net**.

Conference
Muslims and Political Participation in Europe

Date: 21-22 April 2010
Location: Copenhagen
Organisation: EurIslam network, based at the University of Strasbourg and the Centre for European Islamic Thought (CEIT), at the University of Copenhagen

The conference will focus on the processes and realities of Muslim participation in local and national politics, internal Muslim debates about political participation in Europe and public discourses about Muslim participation.

For further information see **www.islam.ku.dk/english/politicalparticipation**.

Veranstaltung
Antimuslimischer Rassismus als gesellschaftliche Krisenbewältigungsstrategie

Datum: 6. Mai 2010
Ort: Berlin
Veranstalter: Bildungswerk Berlin der Heinrich-Böll-Stiftung

Die Veranstaltung zum antimuslimischen Rassismus beschäftigt sich in Anbetracht aktueller sozialer Krisen und ihren politischen Regulationen mit neuen rechtspopulistischen und rassistischen Entwicklungen. Dies meint die Wiederbelebung von „deutscher Leitkultur" gegenüber einer sogenannten „demokratiefeindlichen Islamisierung der Gesellschaften". Neben der Auseinandersetzung mit aktuellen Konjunkturen von antimuslimischen Rassismus sollen antirassistische Handlungsperspektiven entwickelt werden.

Weitere Informationen unter **www.boell.de**.

Forum
Islam und Christentum - Religionsfreiheit und das Verhältnis von Staat und Religionen

Datum: 17. Mai 2010
Ort: Freiburg
Veranstalter: Konrad-Adenauer-Stiftung, Colloquium Politicum der Universität Freiburg

Weitere Informationen unter **www.kas.de.**

Dr. Tahir Abbas is Honorary University Fellow at Exeter Centre for Ethno-Political Studies, Institute of Arab and Islamic Studies. Dr. Abbas has (co)authored over 30 journal articles, authored, edited or contributed to 28 books, and has delivered over 100 lectures in over 25 countries. He was elected Fellow of the Royal Society of Arts in 2006. Publications in 2010 include, Islamic Radicalism and Multicultural Politics; Islam and Education (ed.); and Honour, Violence, Women and Islam (ed., MM Idriss).

Dr. Werner Daum has authored/edited 14 books on Yemen. His "Yemen, 3000 Years of Art and Civilisation in Arabia Felix", 1987, is the standard reference on Yemen. He curated several major exhibitions, amongst them "Yemen" (330,000 visitors). He was Germany's ambassador/Head of Mission in Yemen, Sudan and Kuwait.

Joel Fetzer, Ph.D, is professor of political science at the Pepperdine University, CA. He received his Ph.D in Political Science at Yale University in 1996. He did language studies at Georgetown University, University of Minnesota, Goethe-Institut Schwäbisch Hall, Central Michigan University, University of California at Los Angeles, Pasadena City College, East Los Angeles City College, Chinese University of Hong Kong, Taipei Language Institute, Los Angeles Chinese Learning Center, Beverly Hills Lingual Institute, Korean Cultural Center of Los Angeles, and University of Hawai'i. His areas of interest are Immigration Politics, Race and Ethnicity, Religion and Politics, Public Opinion and Voting, Western Europe, United States, and East Asia. Selection of publications: Muslims and the State in Britain, France, and Germany (with J. Christopher Soper). New York and Cambridge: Cambridge University Press 2005; Public Attitudes toward Immigration in the United States, France, and Germany. New York and Cambridge: Cambridge University Press 2000; "Religious Institutions, Church-State History, and Muslim Mobilization in Britain, France, and Germany" (with J. Christopher Soper). Journal of Ethnic and Migration Studies 33 (2007) 6: pp. 933-944; "Practicing their faith: Muslims and the State in Britain and France" (with J. Christopher Soper). Public Policy Research 12 (2006)4: pp. 234-237.

Dr. Ralph Ghadban was born in Lebanon and moved to Germany in 1972. He studied philosophy in Beirut and Islamic and Political Sciences in West-Berlin. He is working in the field of migration and especially on the Muslim minorities in the west. He is teaching at the Evangelical University of Applied Sciences in Berlin. His publications include a number of articles in journals and books and two monographs: „Die Libanon-Flüchtlinge in Berlin. Zur Integration ethnischer Minderheiten" (Berlin 2000) and „Tariq Ramadan und die Islamisierung Europas" (Berlin 2006). In the academic year 2008-09 he was member of the Institute of Advanced Study in Princeton, USA where he conducted researches about the *fiqh* of Muslim minorities in the west. Selection of published books: Muslim Minorities and the Law in Europe. Chances and Challenges; New Delhi: Global Media Publications, 2007, Islamic Law in past an present (Islamisches Recht: Geschichte und Gegewart), München 2009 by C.H. Beck.

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CSIS, 1985); and The PLO After Tripoli (editor, CSIS, 1984). Dr. Hunter is the author of more than 30 book chapters and 40 articles in many leading journals. She is fluent in English, French, Persian, and Azeri Turkish, and also has a working knowledge of Arabic.

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Prof. Dr. Mathias Rohe, former judge at the court of appeals, is the founding director of the Erlangen Center for Islam and the Law in Europe. His areas of academic work are the legal Status of Islam in Germany and Europe and its development in a European context and Islamic Law, especially its development in present days. He is co-founder and since October 2001 President of the Society for Arabic and Islamic Law, Vice President of the Legal Society Middle Franconia at Nuremberg and member of the board of trustees of the German Orient-Institute.

Dr. Hansjörg Schmid studied catholic theology at universities in Freiburg, Jerusalem and Basel. Between 1999 and 2002 he was researcher at the Arbeitsbereich Neutestamentliche Literatur at the University of Freiburg. 2002 he received his Ph.D and since then, he is working at the Akademie der Diözese Rottenburg-Stuttgart (www.akademie-rs.de) with a focus on the dialogue between Christians and Muslims. He is one of the founders of the Theologisches Forum Christentum-Islam (www.akademie-rs.de/theologischesforum/), is member in the discussion circle "Christen und Muslime", organised by the committee of the German catholics. He was the executive manager of the project „Gesellschaft gemeinsam gestalten. Islamische Vereinigungen als Partner in Baden-Württemberg" (2006-2008), sponsored by the Robert Bosch Foundation.

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