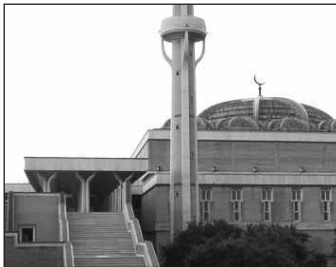


**A GUIDE TO SHARIAH LAW AND ISLAMIST IDEOLOGY
IN WESTERN EUROPE 2007-2009
BY THE CENTRE FOR ISLAMIC PLURALISM
2009**



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**A GUIDE TO *SHARIAH* LAW
and
ISLAMIST IDEOLOGY
in
WESTERN EUROPE 2007-2009**

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Cover illustrations:

- 1 - top l.) Relief on Washington's Supreme Court Building depicting the Prophet with the *Qur'an* in one hand and a sword in the other
- 2 - l/r) Houses of Parliament, London
- 3) The Grand Mosque of Rome, the most prestigious mosque in Italy
- 4) The Knights' Hall [aka *Ridderzaal*] part of the Binnenhof Parliament buildings, The Hague.
- 5) Reichstag, Berlin
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PREFATORY NOTE

The introduction of *Shariah* law in Western legal systems provokes widespread concern. To be sure, some *Shariah* laws are purely personal to Muslims, and their observance cannot be thought objectionable. Dietary rules and dress codes are shielded by Western constitutional protections of religious and privacy rights. These should properly be a matter of indifference to non-Muslims. Other *Shariah* laws that promote positive morality – hospitality to strangers, performance of promises – should be welcomed. Westerners are troubled, however, by the idea of a separate legal code that strengthens or weakens the penalties for criminal behaviour imposed on all citizens. Polygamy, so-called “honour” murders, jihadist militancy, female genital mutilation, forced marriages and related practices can have no part in a Western legal system.

The value of this compendium, produced by some of the leading Western Muslim experts, is in showing how moderate and liberal Muslims may give a commitment to honour Western legal rules without in any way derogating from the principles of their religion. This understanding of the civic duties of Muslims in non-Muslim countries has, moreover, the backing of the most authoritative Muslim juristic figures. But it is intolerable, according to the authors, that radical *Shariah* adherents promote their vision of an illiberal legal code that violates the most fundamental liberties of citizens. One of the great values of this handbook is that it offers the best analysis of the goals of radical Islam with respect to the imposition of *Shariah* in the West, and the penetration of these ideas. The debate described in these pages has been almost entirely veiled from non-Muslim eyes, and will be a revelation to all.

F.H. Buckley

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Executive Director
George Mason Law and Economics Center
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Five Principles For Study of *Shariah* in Western Europe

LEGALITY: “If [a Muslim] has given [a non-Muslim government] a commitment – even if indirectly (as is implied in the immigration documents) – to abide by the laws of that country, it is necessary for him to fulfill his commitment.”

– *A Code of Practice for Muslims in the West*, a standard Shia *Shariah* manual, based on the writings of the Iraqi Ayatollah Ali Sistani

* * *

CONSENSUS: “The way of Islam states that the believer must submit to the general laws [in a country of residence]... French Muslims must take account of their presence in a non-Muslim context.”

– Dr. Dalil Boubakeur, Rector of the Grand Mosque of Paris, cited in *Case Study: France*

* * *

CIVILITY: “In a democratic society, citizens retain the freedom – albeit within certain limits – to pursue their own lifestyle and to decide for themselves how they conduct their relationships with each other and with the government. But if their withdrawal from society starts to endanger basic rights and freedoms of others, then they have overstepped the mark and are damaging the democratic legal order.

“In this light, certain forms of *intolerant* isolationism do represent a particular threat: exclusivism in respect of one’s own group and *parallelism*. Exclusivism is expressed through discrimination, incitement and sowing hatred. Parallelism does not recognise the authority of government, seeks to impose religious laws before secular ones and tries to create enclaves in which that system rather than government authority prevails.”

– The Dutch Intelligence Service AIVD, as cited in *Case Study: The Netherlands*

* * *

EDUCATION: “The Muslims of France, in their quasi-totality, have a limited comprehension of their religion, because of a lack of access to religious education... only an archaic version of Islamic law has become accessible to all... today human rights, religious freedom, and *laïcité* are the most consensual principles, and alone in being capable of managing the whole of human society, as pluralistic as it is.”

– Soheib Bencheikh, Mufti of Marseilles, cited in *Case Study: France*

* * *

PLURALISM: “To force the artificial creation of a religious actor that unifies Islam seems *a priori* easier for the State, even more if the object is to recentralise the management of religious policy. But to reproduce the bilateral scheme that serves the Catholic Church does not take into account the plural and heterogeneous reality of Islam.”

– Àlex Seglers Gómez-Quintero, cited in *Case Study: Spain*

Glossary of Main Organisations, Trends and Acronyms

ACVZ – *Adviescommissie voor Vreemdelingenzaken* (Advisory Commission on Aliens Affairs); Dutch government body

Ahmadiyyat or Ahmadis – Community of dissident Muslims; one faction, known as Qadianis, believe in the appearance of the Muslim messiah or *mahdi* in 19th century India, as Mirza Ghulam Ahmad (1835-1908), while a second faction, known as Lahoris, believes the founder was a reformer, but not a *mahdi*

AIVD – *Algemene Inlichtingen – en Veiligheidsdienst* (General Intelligence and Security Service); Dutch government agency

AKP – *AKPartisi* (Justice and Development Party); “soft fundamentalist” party in Turkey

Alevilik or Alevis – Turkish and Kurdish heterodox Muslim group, combining Shia and Sufi doctrines, and traditional Turkish and Kurdish spiritual practices

AMSUK – Association of Muslim Schools in the UK

Barelvis – Sunni Muslims, conservative but neither *takfiri*, q.v. nor jihadist; spiritually affiliated with Qadiri Sufis

Berbers/Amazigh – Indigenous, non-Arab Muslim community in North Africa, with large but poorly-organised presence in the Netherlands, France, and Spain

BMF – British Muslim Forum; Deobandi-oriented, Wahhabi-influenced small organisation active in media; claims a Sufi orientation

CSC – Centre for Social Cohesion; UK think-tank

CDA – *Christen Democratisch Appèl* (Christian Democratic Appeal); Dutch conservative party

CFCM – *Conseil français du culte musulman* (French Council of the Muslim Faith); non-governmental liaison body with official authorities

CGI – *Contact Groep Islam* (Contact Group Islam); alternative Dutch Muslim organisation including Alevis, Ahmadis, MIB, and NMR

CIE – *Comisión Islámica de España* (Islamic Commission of Spain); official Muslim liaison body with Spanish government, currently undergoing reorganisation

CMO – *Contactorgaan Moslims en Overheid* (Contact Body for Muslims and Government); pro-*Shariah* Dutch Muslim organisation

CPS – Crown Prosecution Service; UK legal institution

Deobandism – Sunni-aligned movement founded in 19th century British India. Originally peaceful and spiritual, although fundamentalist; its Pakistani branch became jihadist and *takfiri*, produced Tabligh-i-Jamaat (TJ), q.v., as well as the Afghan Taliban

Deutsche-Islam Konferenz (German Conference on Islam); established in 2006 with 15 Muslim members and 15 government representatives

DİTİB – *Diyanet İşleri Türk-İslam Birliği; Türkisch-Islamische Verein der Anstalt für Religion e V.* (Turkish-Islamic Union for Religious Affairs); extraterritorial Turkish Sunni authority in Germany and the Netherlands, branch of *Diyanet*, q.v.

Diyanet – State Islamic Administration of the Republic of Turkey

ECFR – European Council for Fatawa and Research; fundamentalist *Shariah* body led by Yusuf Al-Qaradawi

EMN – European Muslim Network; Brussels-based “think-tank” associated with Tariq Ramadan, a supporter of “parallel *Shariah*,” and with general fundamentalist Islamic tendencies

EMU – European Muslim Union; transnational body of authentically moderate Muslims, with offices in Germany and Spain, as well as Bosnia-Herzegovina and Turkey

FEERI – *Federación Española de las Entidades Religiosas Islámicas* (Spanish Federation of Islamic Religious Bodies); organisation influenced by Morocco, Saudi Arabia, and the MB, and represented in CIE

FEME – *Federación Musulmana de España* (Muslim Federation of Spain); alternative body, representation pending in reorganised CIE

FIOE – Federation of Islamic Organisations in Europe; fundamentalist body involved in the foundation of ECFR

FNMF – *Fédération nationale des musulmans de France* (National Federation of Muslims of France); Moroccan-aligned group

- FOSIS – Federation of Students Islamic Societies; fundamentalist group active in higher educational institutions in Britain
- FMU – Forced Marriage Unit; UK government agency responsible for preventing forced marriages
- GMP – *Mosquée de Paris* (Grand Mosque of Paris); leading French mosque headed by moderate rector, Dr. Dalil Boubakeur
- GSPC – *Al-Jamaa as-Salafiyya li Da'wa wa'l Qital* (Salafi Group for Calling to Religion and Combat, known by its French initials); Algerian-based terrorist group, retitled “Al-Qaida in the Islamic Maghreb”
- Hatun und Can* – German relief organisation founded in the aftermath of the notorious so-called “honour” murder of Hatun Sürücü in Berlin in 2005
- Hizb-ut-Tahrir* (Party of Liberation, HT) – Conspiratorial revolutionary Islamist group active in Arab countries, Central Asia, and other Muslim lands; banned in Germany
- ISOOK – Islamic Foundation for Education and Propagation of Knowledge (as known by its Dutch initials); Wahhabi centre in Tilburg, the Netherlands
- Islamic *Shariah* Council – *Shariah* body in Leyton, UK
- IZH – *Islamische Zentrum Hamburg*; Iranian-funded Shia Imam Ali Mosque in Hamburg
- Kalifatstaat* (Caliphate State) – “Kaplan conspiracy;” extremist Turkish entity based in Köln, Germany
- KRM – *Koordinationsrat der Muslime* (Coordination Council of Muslims in Germany); liaison body launched in 2007, including DİTİB, *Milli Goruş* (operating through an Islamrat or Islam Council), VIK, and ZMD, qq.vv.
- MAB – Muslim Association of Britain; small fundamentalist group
- MAT – Muslim Arbitration Tribunal; British *Shariah* network
- MB – Muslim Brotherhood; *takfiri* Islamist movement founded in Egypt by Hassan al-Banna (1910-1949), now influential throughout the Arab world, as well as in such European countries as Britain, the Netherlands, France, and Spain
- MCB – Muslim Council of Britain; fundamentalist organisation that claims a leading role as a Muslim interlocutor with the UK authorities, but represents a minority of mosques
- MIB – *Marokkaanse Imam Bond* (Moroccan Imams’ Union); extraterritorial Moroccan clerical authority in the Netherlands, member of CGI
- Milli Goruş* (National Vision), *Islamitische Gemeinschaft Milli Goruş*, IGMG, or *Milli Goruş* Islamic Community; fundamentalist Turkish Sunni group active in Germany and the Netherlands, associated with ECFR
- MINAB – Mosques and Imams National Advisory Board; official institution established to improve standards among British imams
- Al-Muhajiroun* (The Migrants) – Small radical Islamist group active in Britain and supporting terrorism
- Muslim Law (*Shariah*) Council UK – Fundamentalist *Shariah* tribunal
- NCTB – *Nationaal Coördinator Terrorismebestijding* (National Coordinator for Investigation of Terrorism); official Dutch anti-terrorism agency
- NIO – *Nederlandse Islamitische Omroep* (Dutch Islamic Broadcast Organisation); broadcast service affiliated with CMO
- NMO – *Nederlandse Moslim Omroep* (Dutch Muslim Broadcasting Service); broadcast service affiliated with CGI
- NMR – *Nederlandse Moslim Raad* (Netherlands Muslim Council); umbrella group for the NMO broadcast network
- “*Ni Putes Ni Soumises*” (“Neither Whores Nor Submissives”) – French group protesting abuse of Muslim women
- PP – *Partido Popular* (People’s Party) – Spanish conservative party
- PSOE – *Partido Socialista Obrero Español* (Spanish Socialist Workers’ Party) – Social democratic party
- PvdA – *Partij van der Arbeid* (Labor Party); Dutch social-democratic party
- Regents Park Mosque *Shariah* Council – Main London radical *Shariah* body
- RER – *Registro de Entidades Religiosas* (Registry of Religious Entities); Spanish government administration for religious groups

RMMN – *Raad van Marokkaanse Moskeeorganisaties Nederland* (Council of Moroccan Mosque Organisations in the Netherlands); member of CGI

RMF – *Rassemblement des musulmans de France* (Rally of Muslims of France); Moroccan-oriented offshoot of FNMF

“Roubaix gang” – Terrorist criminal conspiracy linked to Al-Qaida, active in France

Salafis – 19th century modernist and reforming Muslims who claimed to emulate the *aslaf*, or Companions and Successors of the Prophet Muhammad, and who denounced Sufism and other spiritual practices. The term is now assumed by or applied to Wahhabis, i.e. adherents of Wahhabism, q.v., who also claim to emulate the original Muslims – their designation as Salafis is, however, seriously incorrect, in that the Wahhabis are *takfiri* and pursue violence against non-fundamentalist Muslims and non-Muslims, while the 19th century Salafis were neither *takfiri* nor violent

SHO – *Samenwerkende Hulpororganisaties* (Cooperative of Relief Organisations) – Dutch charity group

SMN – *Samenwerkingsverband van Marokkanen in Nederland* (Cooperative Union of Moroccans in the Netherlands); moderate Muslim community group

SOS – Supporters of *Shariah*; jihadist movement founded in Britain by Egyptian-born radical preacher Abu Hamza (Al-Masri)

Tabligh ud-Dawa (Appeal and Call to Religion) mosque – Facility in Marseille, France, affiliated with *Tabligh-i-Jamaat*, q.v.

Takfir wal Hijra (Religious Purge and Migration) – Wahhabi group that included Mohammed Bouyeri, killer of the Dutch media personality Theo Van Gogh in 2004

Takfiri – Muslims who practice *takfir*, i.e. declare those not following their interpretation to be guilty of *kufir* or disbelief, and therefore apostates from Islam; e.g., Deobandis, MB, Wahhabis. Shia Muslims do not practise *takfir* on the basis of disagreement or differences in religious practise

TJ – *Tabligh-i-Jamaat* (Appeal of the Community); influential Islamist movement founded in India in the 1920s, aligned with the radical Deobandi religious

interpretation, and active in numerous Muslim and non-Muslim countries; prominent in UK

UCIDE – *Unión de Comunidades Islámicas de España* (Union of Islamic Communities of Spain); fundamentalist Spanish Muslim organisation, represented in CIE

UMMON – *Unie voor Marokkaanse Moslim Organisaties in Nederland* (Union for Moroccan Muslim Organisations in the Netherlands); Moroccan-based member of CMO

UMP – *Union pour une Mouvement Populaire* (Union for a Popular Movement); French centrist political party led by Nicolas Sarkozy

Union of Muslim Organisations of the UK and Ireland – Small pro-*Shariah* group

UOIF – *Union des organisations islamiques de France* (Union of Islamic Organisations in France); fundamentalist-oriented group

VIK – *Verband der Islamischen Kulturzentren* (Union of Islamic Cultural Centres); popularly known as *Süleymancilar*; Sufi-oriented, anti-secularist movement active in Turkey and the Turkish diaspora in Germany and the Netherlands

VIN – *Vereniging Imams Nederland* (Imams’ Association of the Netherlands); Moroccan-oriented member of CMO

VVD – *Volkspartij voor Vrijheid en Democratie* (People’s Party for Freedom and Democracy); Dutch conservative party

Wahhabism – Fundamentalist, *takfiri* movement founded in Arabia in the 18th century and now established as the state form of Islam in the kingdom of Saudi Arabia, which has financed its global expansion and support for Deobandis and the MB; occasionally misrepresented or mislabeled as Salafis

WRR – *Wetenschappelijke Raad voor het Regeringsbeleid* (Dutch Scientific Council for Government Policy); official research and advisory body

Women Living Under Muslim Laws – UK-based feminist group

ZMD – *Zentralrat der Muslime in Deutschland* (Central Council of German Muslims); reputedly Saudi-influenced organisation

1. CIP and its Role Investigating *Shariah* in the West

The Centre for Islamic Pluralism (CIP) is an international network of moderate Muslim religious scholars, journalists and authors, and community leaders. It includes believers in both Sunni and Shia interpretations of Islam, and participants in the spiritual tradition of Sufism. It was established in 2004 by the American writer Stephen Suleyman Schwartz, who became Muslim in 1997 and is the author of a bestselling study of Saudi-financed Islamic fundamentalism (Wahhabism), *The Two Faces of Islam: Saudi Fundamentalism and Its Role in Terrorism*. The book was the first exposé of the Saudi role in the origins of Al-Qaida to be published in the West, and was widely read and translated in the Muslim world. Schwartz has also published *The Other Islam: Sufism and the Road to Global Harmony*.

As of 2009, CIP maintains full-time websites and activities in the U.S., UK, Germany, in the Balkans, and, with correspondents, operates in more than 25 countries. The UK branch of CIP has responsibility for British Islam as well as for Saudi Arabia and the Arab countries in general, Pakistan, India, and Bangladesh; the German branch monitors Germany, Turkey and the Kurdish lands; the Balkan branch operates in that region.

CIP has correspondents and contacts with other groups in Canada, the Netherlands, France, Sweden, Russia, Israel (including the Israeli Arab community), Iraq, Pakistan, India, Kazakhstan, Uzbekistan, China, Singapore, Malaysia, and Indonesia.

In 2007, CIP received a grant to study the penetration of *Shariah* or agitation for adoption of Islamic law, in Western Europe, covering the UK, Ireland, Germany, the Netherlands, France, and Spain. The following monograph is the product of this grant. Writing and editing was carried out by CIP Executive Director Schwartz, with research mainly coordinated by CIP International Director Irfan Al-Alawi, a leading figure in global Sunni Islam, CIP German Director Veli Sirin, CIP General Studies Director Kamal Hasani, and CIP UK Research Director Daut Dauti. Qanta Ahmed, MD, a physician working in New York, contributed the supplement to *Case Study: Britain*, on Islamist ideology in UK medical training. The CIP team comprises fully qualified Sunni and Shia experts on *Shariah*, as well as a heterodox Sufi, a heterodox Shia, and a secular Muslim. It is therefore authentically representative of the diversity of moderate Muslim opinion.

2. Methodology

This survey begins with basic definitions of *Shariah* and explanation of the origins and nature of the *Shariah* controversy in Western Europe, including review of the *Shariah* textual sources employed in Western Europe. *Shariah* in Islam has functioned historically through schools of Islamic law, or *madhahib*. Traditional *Shariah* is based on a recognised canon, some significant elements of which have been translated and published in English.¹

But in the Islamic world and in the West, traditional *Shariah* has an opposing counterpart in the form of radical *Shariah*. Much of the corpus of radical *Shariah* is now drawn from recent *fatwas*, some of them posted on websites.²

This study elucidates the distinction between the two contrasting variants. In addition, however, other new phenomena have emerged among Muslims in the West. These include “shadow *Shariah*,” in which radical *Shariah* appears in clandestine, illegal, or informal manner among Muslim immigrants and their descendants in the West, and an innovation, which we designate as “parallel *Shariah*,” developed as a proposed separate juristic canon, governing Muslim affairs, within the legal structures of Western, non-Muslim countries.³

The monograph includes case studies assessing the impact of *Shariah* agitation in each of five countries. *Shariah* encompasses strictly personal religious-ritual aspects, such as rules for prayer, ablutions, diet, fasting, charity, male circumcision, and burial, which we exempt from analysis in that they almost never involve contradiction with or other intrusion into relations between Muslims and non-Muslims.

Each of the case studies is structured around four key areas.

(1) Family/schooling

Because religious law on marriage and divorce, and school choice, have long been accepted as unthreatening to Western societies, these areas are vulnerable to targeting by *Shariah* adherents for ideological penetration and manipulation. Radical *Shariah* agitators call for marriage and related issues to be subject to religious jurisdiction, and for Muslim children to be educated only in Islamic schools.

We have analysed the effect of *Shariah* agitation on family behavior and school participation as described by clerics, community leaders, and other moderate Muslim representatives as well as in Muslim and non-Muslim media.

We have discussed with our interlocutors, and empirically observed the following: Are private *Shariah*-oriented elementary and secondary schools growing in number? Have demands for introduction of Islamist curricula in state schools, such as proposed by the Muslim Council of Britain and discussed in Germany and other countries, received support from parents and students? Do young people refrain from dating or other inter-gender social contact without the presence of a chaperone? Do parents express dissatisfaction with inter-gender arrangements in state schools? Has opposition to social contact and friendship with non-Muslims increased among Muslim youth and Muslims in general? We more crucially asked how much those who claim to support *Shariah* in the UK and elsewhere really know about *Shariah*, or whether it is simply a trope expressing political discontent or youth rebellion.

(2) Institutionalisation of *Shariah* by non-Muslim governments (“Parallel *Shariah*”)

The outstanding goal of the radical *Shariah* offensive in the West is that “parallel *Shariah*” be accorded official legal standing, leading to general jurisdiction over Muslims, alongside common law in the West. We have examined and analysed the Islamic source materials used to develop this view, as well as opinions by radical *Shariah* groups and non-Muslim defenders of the establishment of *Shariah* jurisdiction over Muslims in Western countries. We have investigated how extensively each country has permitted “parallel” and “shadow” *Shariah* institutions to function openly or in a clandestine manner, and on that basis have evaluated the success of advocacy for “parallel *Shariah*” in Western European legal systems. We have examined attitudes toward “*Shariah*-based community mediation services” as a pretext for “parallel *Shariah*.”

We have also inquired into the influence of Saudi, Turkish, Moroccan and other state-sponsored religious structures in the administration of mosques and community institutions, since Muslim clerics in Western Europe are often foreign, and some have been trained in radical *Shariah* attitudes. We have analysed the effects of *Shariah* agitation on established Western legal theory as reflected in whether *Shariah* adherents demand and may have obtained enforcement of *Shariah* judgments by non-Muslim legal systems.

(3) Criminal aspects

Because radical *Shariah* advocates teach that Muslims can disregard Western law, we inquired into the role of Islamist ideology in inciting and justifying such behavior, and the role of radical Islam in Western European prisons.

(4) Approach to Women

We inquired extensively into victimisation of Muslim women under the pretext of *Shariah* in Western Europe, and whether recourse to *Shariah* authorities or courts has risen or declined in

ordinary divorce cases, domestic violence complaints, so-called “honour” murder, the incidence of forced marriage or divorce, and cases of female genital mutilation (FGM). We have documented specific phenomena and non-Muslim and Muslim public reaction to them. As a complement to these inquiries, we have inquired into the roles of non-Muslim courts, law enforcement, protective agencies, women’s groups, counseling services, and related bodies.

Supplemental sections discuss the religious justifications provided for intrusion of radical *Shariah* concepts in Western medical training and “Islamic finance” in the West, the evolution of which is recounted in various places in the survey.

In all four general areas of inquiry, we have examined the extent to which the radical *Shariah* effort in the West is mainly agitation, and whether its impact is reflected more in attitudes than in functional activities. We analysed the statements of some academics and leading government officials about past responses and perspectives on future response to radical *Shariah* agitation.

The major summary questions to be drawn from discussions of *Shariah* in Western Europe are:

- How do *Shariah* proponents advance radical ideology and/or serve as cover for terrorist conspiracies?
- How do proponents of radical or “parallel *Shariah*” contend with objections to their activities by women, secular Muslims, moderates, and traditionalists, and vice versa?
- Do families more frequently consult religious leaders or submit queries to *Shariah* websites before making decisions?
- Is voluntary community mediation based on Islamic law a workable concept, in which guarantees of fair treatment can be assured?
- How can Western-trained and resident Muslim non-*Shariah* legal professionals

be assisted to form a professional lobby?

- Can *Shariah* be modernised to function in better harmony with Western law?
- Does *Shariah* in any form, aside from strictly personal religious matters, have a place in Western Muslim life?
- How have government or other official responses succeeded or failed, and why?

CIP hopes to produce, annually or biennially, regularly-updated editions of this volume.

An introductory point should be understood about the sociology of recent immigrant Muslims in Western Europe. Britain, the Netherlands, France, and Spain are countries where immigration patterns have been strongly influenced by colonial histories in the Muslim world, and in the latter two cases, a common geographical position with the Muslim lands in the Mediterranean. Intra-Islamic disputes in Britain and France may frequently reflect attitudes, or, at least, rhetoric, about colonial legacies and the past or present policies of the host countries in Muslim countries. These issues are present but much less prominent in the Netherlands and Spain. Germany, with no recent history of colonialism in the Muslim world, has almost no collective memory of a German presence among Muslims.

NOTES

1 Five volumes of traditional *Shariah* may be consulted: Hadi, Abdul [based on the work of Ayatollah Ali Sistani], *A Code of Practice for Muslims in the West*, tr. Sayyid Muhammad Rizvi, Imam Ali Foundation, n.p., 1999 (Jafari Shia); Ibn Naqib, Ahmad, *Reliance of the Traveller*, tr. Nuh Keller, Beltsville, Md., Amana

Publications, rev. ed., 1994 (Shafi'i – Arab and Southeast Asian Sunni regions); Ibn Anas, Malik, *Al-Muwatta*, tr. Aisha Bewley, Inverness, Scotland, Madinah Press, 2004 (Maliki – North and West African Sunni); and two Hanafi volumes: Qazi Thanaa Ullah, *The Essential Hanafi Handbook of Fiqh*, tr. M. Yusuf Talal Ali, New Delhi, Kitab Bhavan, 1992, and Al-Farghani Al-Marghinani, Burhan al-Din, *Al-Hidayah (The Guidance)*, 2 vols., tr. Imran Ahsan Khan Nyazee, Bristol, Amal Press, 2006 and 2008 (Balkans/Turkey/Central Asia/Pakistan/Indian Sunni).

2 The main printed source on radical *Shariah* is Al-Qaradawi, Yusuf, *The Lawful and the Prohibited in Islam*, Tr. by Kamal El-Helbawy, M. Moinuddin Siddiqui, and Syed Shukry, Indianapolis, American Trust Publications, n.d. The number of radical *Shariah* websites is prodigious. Perhaps the most popular in English is www.fatwa-online.com. Although it denounces terrorism, any Muslim will recognise its radicalism from its selection of authorities and opinions. Another important website is www.islamic-sharia.org.

3 “Shadow *Shariah*” is mainly reported in Western media. Sources on “parallel *Shariah*” include, at the time of this survey, two collections of *fatwas* issued by the European Council for Fatawa and Research (ECFR). *Note: fatwas (fatawa)* are not limited to condemnations or other punitive sentences: they are religious opinions that can address any topic under *Shariah* jurisdiction, from diet to burial. *Fatwas* are advisory for Sunni Muslims but binding for Shias. The first ECFR collection was issued in French as *Conseil européen des fatwas et de la recherche, Recueil de fatwas*, Série no. 1, Présentation [by] Yusuf Al-Qardawi, Préface et commentaires [by] Tariq Ramadan, Lyon, Éd. Tawhid, 2003. The second ECFR collection has been published in English online at www.e-cfr.org/. A Bosnian edition includes both of the two collections: *Fetve Islamskog Vijeća*, tr. by Dr. Enes Ljevaković, Sarajevo, Connectum, 2006. An Albanian edition of the second collection was issued by the fundamentalist-dominated Islamic Community of Macedonia, titled *Akademia Evropiane për Fetva dhe Studime*, tr. by Bashkim Aliu, Shkup, Furkan ISM, 2006. In addition, academic and related commentaries on this controversy are discussed and cited herein.

3. *Shariah* Defined

Shariah is typically defined as Islamic religious law. *Shariah*, as a term, however, has two meanings: general and particular. In the general meaning, it represents a synonym of the Islamic (Arabic) word for faith (*din*). In that context, it is sometimes used instead of “faith,” so that we find references in Islamic sources to *Shari’at-ul Islam* or *Shari’at-ul Musa*, referring to the Islamic faith or the Jewish faith. In this definition, *Shariah* denotes belief in the transcendental origins to which people were called by the divine prophets, and no differences or disagreements are recognised among prophets. Considered in this way, there is but one monotheistic religion. Through the history of monotheistic religion, the Creator has revealed various “*Shariahs*.” According to *Qur’an* and the *Sunnah*, or body of Islamic belief, five “*Shariahs*” have been made known: those of Noah (Nuh in Islam), Abraham (Ibrahim), Moses (Musa), Jesus (Isa), and the *Shariah* of the Prophet of Islam, Muhammad.

Islam promulgates *Shariah* as law on ritual and life matters involving the basic Muslim obligations, including prayer and its ablutions, diet and fasting, the provision of charity, and such other matters of sacred observance as circumcision of males and burial. Further, Islam regulates certain financial and business transactions (banning income derived from loaning money to obtain interest, or *riba*), as well as inheritance, marriage and divorce, other moral issues, cleanliness and personal hygiene (especially among Shia Muslims), criminal justice, and war.

Shariah may function in areas of essential ritual in a manner that, in principle, should not interfere with the rights of non-Muslims. But *Shariah* in Islamic countries has developed in two

directions, a) traditional and b) Islamist ideological. Extreme Islamist ideology is neither traditional nor conservative, but radical and even revolutionary. Further, the new conception of “parallel *Shariah*” in even its apparently least intrusive elements may become disruptive of Western society.

Traditional *Shariah*

In the first seven centuries of Islamic history, *Shariah* was treated as a “universal” legal standard, and was applied, to the extent possible, to all aspects of life. Traditional *Shariah* today is “personal,” and limited to religious observance by Muslims, and elements of family law.

Traditional *Shariah* includes five main schools of interpretation.⁴ These are:

The oldest, *Hanafi* school of Sunni jurisprudence was created by Abu Hanifah (699-765 C.E.) and is the most tolerant of differing opinions. It is also the most influential of the several schools of legal thought in the Muslim world today, dominating Turkey, the Balkans, Central Asia and Chinese Turkestan, Afghanistan, Pakistan, and India. Abu Hanifah sought to derive and codify rulings based on divine law, regarding five categories of human action: the forbidden, the disapproved or disliked, the permitted, the *Sunnah* or voluntarily virtuous, and the obligatory. Legal arguments between scholars, before a judge (*qadi*) or in obtaining *fatwas* as to what is permitted and what is prohibited, rested on the fundamental texts of Islam: *Qur’an*, the *hadith* and the lives of the Prophet and his Companions. These were supplemented by new rules, based on analogy (*qiyas*) with a similar or parallel example of human conduct in *Qur’an* or the *hadith*. Jurists also drew on consensus among the scholars.

Three other schools emerged in the generations following Abu Hanifah that also became standard in Sunni Islam and are considered of equal validity. Each has its own methodological emphasis.

Malikis are named for Malik ibn Anas, a resident of Medina, the ideal city as organised by the Prophet Muhammad, and are centred on original Medinite customary and legal practices. This tradition struck deep roots in Muslim Spain and in North and West Africa, where it remains the most important Islamic legal school.

Shafi'is, who follow Muhammad ibn al-Shafi'i, based their judgments on the *hadith* as well as the use of analogy. The founder of this tradition began as a student of Malik Ibn Anas. Its area of influence presently includes Egypt, the Arab states of the Middle East (except the Arabian Peninsula and the Persian Gulf), Sunni Kurds, and Muslims in the Indian Ocean and Southeast Asia.

Hanbalis are inspired by Ahmad ibn Hanbal, a pioneer of fundamentalist theology in Islam. His school stressed the use of authentic *hadith* in preference to analogy. It now dominates the Arabian Peninsula and the Gulf states.

Most Shias follow another school, the *Jafaris*. This form of jurisprudence includes decision-making based on *ijtihad*, or individual, inspired theological reasoning by recognised authorities. *Ijtihad* is seldom understood by Westerners and is often equated by them with individual reasoning in general.

From Universal to Personal *Shariah*

With the rise of the Turkic and Mongol Muslim empires in the 13th century, the status of *Shariah* changed in Islam. *Shariah* ceased to be “universal”. The Turks and Mongols accepted Islam and the authority of *Shariah* in ritual issues such as prayer, ablutions, diet, fasting, charity, male circumcision, and burial. But they refused to give up their own systems of customary law, which had evolved in Central Asia over millennia. The Ottoman sultan Suleyman the Magnificent (1494-1566) promulgated a legal code separate from *Shariah*, based on Turkish customary law, and

which removed criminal and other state administrative affairs from religious jurisdiction. For this reason, he is known to Muslims as Suleyman Kanuni or Suleyman the Lawgiver.

This Ottoman “secular law” existed in conjunction with *Shariah*, although Ottoman Muslim clerics offered the argument that the secular laws were part of *Shariah*. In the Islamic discourse after the disappearance of the Baghdad caliphate (*khilafah*) in 1258, all law, including non-Islamic law, is considered *Shariah*, reflecting a variant of the view on multiple “*Shariahs*” stated at the commencement of this section, and of which Islamic *Shariah* is one, sacred expression. Because the Ottoman state was the most powerful Muslim state in history, traditional *Shariah* came to be identified with such a “diversity of law.” That is the basis of traditional *Shariah* today: a *Shariah* applied to the personal practice of religious observance, family issues, and finance, but not to crime or governance. The German academic Mathias Rohe (University of Nürnberg), in writing on *Shariah* in Europe, has summarised this relationship as follows: “Technically, there are two current definitions remarkably differing from each other and often causing misunderstanding in public discussion. In a broader sense, *shari'a* refers to any kind of religious and legal rule prescribed by Islam. This includes rules concerning the duties of worship or alms-giving as well as those regulating contract, family, or penal law. Most of the non-Muslims in Europe as well as many Muslims[,] especially [of] Turkish origin would understand the term *shari'a* in a narrower sense, confining it to the legal rules regulating personal status, family and inheritance and corporal punishment. Whereas the observation of rules concerning prayer, fasting etc. usually does not cause any problems, the application of the latter would cause serious conflicts in Europe.”⁵

For this reason, as well as because of the historical impact of European, Soviet, and even, in the Philippines, American colonial rule, every Muslim society in the world, except Saudi Arabia, Iran, and Sudan, today mainly relegates *Shariah* to religious observance and limited family affairs,

while maintaining commercial, civil, and criminal codes based on non-Muslim law. (Iran has, surprisingly, retained aspects of European law.) Turkey recognises only secular law, while the situations of many ex-Communist Muslim countries are unclear, and merit a more thorough investigation.

Personal *Shariah*

As an example of exclusively personal *Shariah*, all Muslims are forbidden to consume alcohol or use items containing pork and its byproducts such as gelatin or pigskin. Shia Muslims are also forbidden to eat most shellfish and some other fish, and are commanded to follow more stringent rules than Sunnis in areas of individual cleanliness or “contamination”. *Shariah* consultations among clerics govern what consumer goods the observant Muslim is permitted to purchase, serve to another, consume or drink, and wear (for example, a pigskin belt, which is prohibited). These are entirely individual matters in every society in the world. Muslims are seldom at risk of violating their personal commitment in these matters by participating in Western society – one negative example, however, is that of pork in food served to Muslim soldiers in non-Muslim military forces or to Muslim inmates in prisons.

Shariah rules for Muslim prayer are diverse according to local standards as determined by the five most-widely recognised and mainly geographical juristic interpretations, but do not extend beyond the prayer space in mosques and homes. *Shariah* governs other religious customs that are not normally the subject of public law in the West – ablutions, diet, fasting, charity, male circumcision, and burial. Non-Muslims need not, in most cases, be concerned about clerical supervision of the slaughtering of meat. In this limited sense, personal *Shariah* already functions on a voluntary basis wherever Muslims live in the West, and poses no threat to Western legal systems.

Nevertheless, an increasing trend toward accommodation of Muslim prayer in Western public facilities, especially schools and

administrative buildings, may also inject into such areas *Shariah*-based gender separation during prayer, as well as head scarves (*hijab*), which violate standards of religious non-interference in public education in France (for all girls and women) and Germany (for teachers only). *Shariah*-compliant funeral services prescribe washing of bodies, time limits on burial of 48 hours after death, and other such details. These last issues are essentially irrelevant to non-Muslims, although the practice of local non-Muslim medical examiners in declining to release cadavers during weekends, for interment within the prescribed 48-hour period has, as we learned, occasioned complaints in Britain.

Muslims are forbidden from loaning or investing money with the intent of earning interest (*riba*), and many leading banks and investment houses in the West have long supported *Shariah* advisory boards to serve Muslim clients in a way compliant with this ban. *Shariah*-based investment services do not affect the lives of non-Muslims. Nevertheless, the ban on income derived from interest is a factor for institutional and legal separation of Muslims from their non-Muslim neighbors, so that the debate over interest, and the ideological origin of so-called “Islamic finance” in the West are properly within the purview of this study and are examined herein.

The Main Contested Area Within Traditional *Shariah*: Family Law

Traditional *Shariah* includes areas of controversy and tension, notwithstanding its personal character, because the personal includes the familial.

Traditional *Shariah* is ambiguous regarding family matters, in that marriage, sexual relations, divorce, and remarriage are generally seen by *Shariah* traditionalists as determined by religious law rather than civil or customary law. Laws against polygamy, which is permitted in Islam, are generally obeyed by traditional Muslims living in non-Muslim countries, and polygamy is increasingly rare in Muslim societies. But many Muslims in the West may decline

Western marriage, or be prevented by Western law, as explained in the case studies, from turning to Western courts regarding divorce and inheritance. Traditional *Shariah* upholds women's rights *de jure* in marriage, divorce, inheritance, and related affairs, and amelioration of injustices to women may, ideally, be accomplished in Muslim countries as well as in the West by recourse to different legal and other public fora, both religious and secular.

But certain abuses against women remain a significant issue in many, but not all, Muslim cultures. For example, so-called "honour" murders, forced or arranged marriages, forced divorce between members of "inappropriate tribes," and female genital mutilation (FGM) are unknown among Bosnian Muslims, who are highly European, and FGM in particular is mainly limited to Arab and African countries, with the noteworthy exception of Kurdistan. Still, traditional *Shariah* in the broader Muslim world is contradictory on the question of arranged or non-consensual marriages, recommending against marriage without the consent of the bride, but lacking clear guarantees of a woman's own choice.

Contemporary *Shariah* texts are increasingly problematical on such issues as so-called "honour" murder and FGM. *Shariah* traditionalists in countries afflicted by so-called "honour" murder and FGM consider these to be tribal customs unrelated to or opposed by religious law. The European Parliament issued a report on so-called "honour" murder in 2007⁶ pointing out, "Honour killing is often mistakenly believed to be an Islamic practice or a practise condoned by Islam since it often occurs in Muslim-majority societies. In actual fact honour killing is forbidden in Islam and there is no mention of this practise in the *Qur'an* or in the *Hadiths*. There is little evidence of the practice in Muslim-majority countries such as Indonesia or Malaysia". Female genital mutilation (FGM) is a pre-Islamic practise. While we agree that abuse of women and children under colour of alleged *Shariah* cannot be ascribed to Islamic religious inspiration *per se*, we believe that the example of Saudi Arabia, which considers itself the leader of the Muslim world and where

so-called "honour" crime, FGM, forced marriage, forced divorce, and related customs are institutionalised, shows that their adoption in Islamic cultures, and the complicity of Muslim religious leaders in enabling them by failing to oppose them or assist victims, must be recognised.

Forced marriage has mainly disappeared among the Islamic elites of the big cities of Pakistan, Turkey, and North Africa, which are the main places of origin of Muslim immigrants to Western Europe, and is viewed as a rural custom common in the poor countries and districts of South Asia, Turkey, Morocco, Algeria, and the Sub-Saharan lands. But underdeveloped regions are precisely those that often produce the largest numbers of immigrants to the West. In its own way, Wahhabi Saudi Arabia, where ultramodern cities and nomadic customs exist side-by-side, and which exports ideology and finance more than people, is an urban environment with rural values, which is one of the reasons practices inimical to women are established there.

FGM is considered obligatory by adherents of Shafi'i *Shariah*, including many Arabs as well as Sunni Kurds, but is absent from the Shafi'i areas of the Indian Ocean and is rare or banned in Southeast Asia (e.g. it is illegal in Indonesia). It is seen as virtuous but not required by Hanbalis, and as a custom acceptable according to the desire of the husband by Hanafis. It is an implied but not a specified practice in Maliki *Shariah*.⁷ FGM is generally banned in Shia Islam. Surgeons conducting FGM reversal are now active in some countries.

Traditional *Shariah* calls for personal modesty in men and women alike but does not demand the imposition of extreme body covering or other radical practices on women.

The standing of all forms of family *Shariah* is presently in question in Muslim as well as non-Muslim societies. *Shariah* is not an immutable legal standard. How moderate and traditional Muslims will address the legal vulnerabilities of Muslim women is unpredictable.

Traditional *Shariah* is, we emphasise, based on pluralistic debate among experts,

grounded in thorough study of authorities and precedents, as well as recognition that, to emphasise, “all law is *Shariah*”, that *Shariah* and secular law have coexisted in Muslim countries for centuries, and that some situations fall outside religious law. Reform of traditional *Shariah* to reinforce women’s rights cannot be excluded, but nor does it necessarily offer a solution, especially if a reformed traditional *Shariah* is presented as a harmless or even progressive factor within a wider strategy for the introduction of “parallel *Shariah*” in Western countries. The future of *Shariah* in general, aside from clearly individual religious obligations and personal hygiene, is even more difficult to predict than change in the status of Muslim women.

The intersection of *Shariah* and customary law is also contradictory. Ottoman secular laws, based on customary law, are considered to have represented a step away from narrow *Shariah*. But Sunni Kurdish communities, as well as Saudi Arabia, the Horn of Africa, and areas geographically near to the latter (particularly Egypt) are influenced by other varieties of customary law, and allow so-called “honour” murder and FGM.

The relationship between traditional *Shariah* and Western law is similarly complex, but in contrast with the situation of radical *Shariah* and Western law, it is not violently adversarial. In traditional Islam, Muslims who immigrate to non-Muslim countries are enjoined to obey the laws and customs of the land to which they move, and to set a good example to their non-Muslim neighbors. The aim of this established guidance was to assure the security of individual Muslims, their families, and their communities, although recent theorists of “parallel *Shariah*” have defined “setting a good example” primarily in terms of Islamic *da’wa* or missionization. Muslim violations of and challenges to common law in Western countries were rare until the rise of radical *Shariah* ideology at the end of the 20th century.

Attitudes toward political participation by Muslims residing in non-Muslim societies are an important marker of traditional vs. radical *Shariah*.

Adherents of traditional *Shariah* have typically sought citizenship in Western countries, joined Western political parties, and voted (and stood as candidates and been elected) in local balloting. In addition, traditional *Shariah* does not permit suicide terrorism or other forms of violence against civilians. In traditional *Shariah*, *jihad* or religiously-commanded armed struggle can only be summoned by a recognised, global *emir*, or “commander of the faithful”, such as is absent from the Muslim world today. A demagogue like Osama bin Laden is not an *emir* and has no authority to declare *jihad*; nor are the leaders of the Palestinian Islamist movement Hamas, the Taliban, or *jihadist* cadres in Pakistan.

In a striking expression of the principle of acceptance of Western law by traditional Muslim immigrants, a standard Shia *Shariah* manual, *A Code of Practice for Muslims in the West*, based on the writings of the Iraqi Shia Ayatollah Ali Sistani, a *marja* or authoritative juristic figure Iraqi Shias are required to follow, states “If [a Muslim] has given [a non-Muslim government] a commitment – even if indirectly (as is implied in the immigration documents) – to abide by the laws of that country, it is necessary for him to fulfill his commitment”.⁸ This concept was restated by Rohe as follows: “with respect to the legal rules of *shari’a* it was broadly accepted since the Middle Ages that they cannot be applied outside ‘Islamic’ territory and that Muslims are obliged to either respect the law of the land or to leave the country and to return to countries ruled by Muslims... [this] obliges Muslims not to break the law of the land as an equivalent for being granted personal security and protection by the state of residence”.⁹

It is also necessary to stipulate that in traditional Islam, *Shariah* would not be applied to non-Muslims. For example, under Ottoman imperial rule, the *millet* or religious-communal system of representation provided for separate justice systems for Jews and Orthodox Christians. In addition, such prohibitions as the Islamic ban on the sale and consumption of alcohol never applied to non-Muslims. Today, among Muslim countries, only Saudi Arabia attempts to apply its

interpretation of *Shariah* to all residents, forbidding the practise of faiths aside from Islam and imposing severe punishments on non-Muslims who drink alcohol.

The spectre of *Shariah* imposed on non-Muslims has become pervasive in some Western media, especially among Islamophobes. But the real problem facing both Muslims and non-Muslims is not that of *Shariah* established against the will of non-Muslims, but of a separate and discriminatory system to which Muslims in the West would be submitted regardless of their needs and desires, either because of misguided attempts to accommodate perceived (but inaccurate) Muslim sentiments, or because of agitation by radicals.

Radical *Shariah*

Radical *Shariah* is institutionalised in few Muslim countries: chiefly, Saudi Arabia, Iran, Sudan (without great success), and some areas of Pakistan, Malaysia, Indonesia and Nigeria. Radical *Shariah* holds that the West is an area of unbelief and that Muslims living in Western lands cannot obey Western laws but must establish their own Islamic legal standard. The problem in the West is less one of radical *Shariah* in *practice*, except where it enables oppression of women; rather it involves a dual ideological discourse. Extremists call vaguely for institutionalisation of radical *Shariah* in the Muslim countries as well as in the West, as an indicator of Muslim identity and as a banner for fundamentalism, in which young Muslims are to be indoctrinated. At the same time, and as explained in the following section, new demands for “parallel *Shariah*”, further toward the mainstream of Muslim and non-Muslim opinion, coexisting with Western law, have emerged.

As previously noted, traditional *Shariah* exists in countries ruled by Muslims, with Muslim majorities, and where Islam is the state religion, but legal canons may be variable, placing customary or secular law alongside religious law. (The old Turco-Mongol customary law is no longer recognised anywhere.)

Radical *Shariah* demands a regressive

transformation: a “Muslim-ruled state” is insufficient, and must be replaced by a theocratic “Islamic state” in which *Shariah* is the sole legal system. Rhetoric employed by Islamist radicals, demanding the institution of a “caliphate” or *khilafah* is typically a metonym for the reestablishment of governance similar to that based exclusively on *Shariah* prior to the 13th century end of the Baghdad caliphate.

Traditional and radical *Shariah* advocates diverge in their attitudes on morals and family law. In traditional *Shariah*, women may be vulnerable to abuse, but radical *Shariah* supporters claim religious support for broader subordination and mistreatment of women. For example, Saudi Arabia, the most radical *Shariah* state, claims that *Shariah* forbids women from driving vehicles, appearing in public without a full and loose body covering, meeting with male non-relatives in the absence of a family member of the woman as chaperone, and other practices that are considered matters of individual choice in most Muslim societies. Visitors to Saudi Arabia in 2007 reported that women were being discouraged from prayer at the Grand Mosque in Mecca and the Prophet’s Mosque in Medina, a genuinely shocking departure from 1,400 years of Islamic observance.

Radical *Shariah* adherents manipulate issues that should be insignificant to non-Muslims, recasting them as bases for extremist agitation. In the certification of consumer items permitted for use by Muslims, *Shariah* should have no bearing on any aspect of non-Muslim life, so long as no effort is made to deny neighbours of observant Muslims the right to consume or purchase whatever they wish. Impelled by radical *Shariah*



Full body covering

proponents, however, attempts to bar the neighbours of Muslims from selling, purchasing, or even possessing pigs or alcohol are visible in some Western and Asian communities. Similar bans are now alleged regarding the distribution of Christian religious literature, e.g. in Britain.¹⁰

Radical Indoctrination in Abstention from Western Politics and Exemption From Criminal and Anti-Terror Laws

Radical *Shariah*, as applied to Muslims living in the West, calls for abstention from Western public institutions, such as voting or other political participation, and also claims exemption from Western laws against suicide terrorism and other acts of violence against civilians. The radicalism of the prominent fundamentalist cleric Yusuf Al-Qaradawi, who was born in Egypt but has operated from Ireland, Qatar, and Belgium, and others like him, is defined by their attitudes toward women and sexuality, but also by their extensive polemics in justification of terrorist activities in Israel, Iraq, Afghanistan, and other countries. Al-Qaradawi is often alleged to be the religious mentor of the Muslim Brotherhood, a fundamentalist movement mainly active in Egypt but present in many Muslim countries.

Equally important, radical *Shariah* proponents, as most recently exposed by UK television, but as long known in Saudi Arabia and the U.S., indoctrinate Muslims in the belief that adherence to Islamic law exempts immigrant Muslims or their offspring from obedience to common and criminal law in Western countries, and permits flouting of social and personal responsibilities contracted with non-Muslims as well as non-radical Muslims. Moderate Muslims have long observed with dismay that radical *Shariah* advocates teach Muslim youth in the West that they may seduce or marry and abandon women (Muslim and non-Muslim), and abduct children from their separated mothers, without or in defiance of court-ordered custody assignment. Such attitudes are so common among Saudis visiting the West that late in 2007, the prominent Saudi daily *Al-Watan (The Nation)* condemned

“tourist marriages,” claiming that Saudis had spent the equivalent of USD25 million on these marriages in the previous three years. Saudi individuals may go on vacation, marry local women for a summer, and then divorce them before returning to the kingdom.¹¹

Followers of radical *Shariah* also claim justification to physically degrade women, children, and employees, borrow money from non-Muslims without repaying it, contract student loans and default on them, rent property without fulfilling lease and other responsibilities, commit identity fraud and otherwise steal property, and generally defy the law followed by their neighbours, down to such simple matters as traffic offences. Specific examples of some of these practices may be mainly anecdotal or journalistic. But there is a marked persistence on *Shariah* websites of inquiries as to whether it is acceptable for a Muslim to defy Western laws, which shows that incitement to such behaviour in the West is serious and growing. Abusive practices, especially those involving women and sexual minorities, although considered abhorrent or criminalised as domestic violence and hate speech in Western Europe, are openly advocated in radical *Shariah* discourse.

The core argument for radical *Shariah* is simple and unsophisticated: the Muslim is told that human law, as represented by Western canons, cannot supersede a presumed divine law, embodied in *Shariah*, although *Shariah* is not itself believed by Muslims educated in religion to be of divine origin. Rather, *Shariah* represents a human application of divinely-mandated religious principles. In the radical view, to sum up, secular law may be ignored or violated.



Female genital mutilation may be performed on girls ranging in age from 1 week to puberty.

Radicals on *Shariah* Regarding Homosexuality, Wife-Beating and Female Genital Mutilation (FGM) and Women's Participation in Society

Three of the most notable examples of explicit support for conduct criminalised in the West involve Al-Qaradawi, the Islamic legal expert Jamal Badawi, who is active in the UK, and the Spanish Muslim cleric Sheikh Mohamed Kamal Mostafá. All are Egyptian by birth, and Al-Qaradawi and Badawi are among the most influential Muslim figures in Europe today. Al-Qaradawi, whose *Shariah* manual *The Lawful and the Prohibited in Islam* is very likely the most widely read such volume among Western Muslims, has stated of homosexuals, "The jurists of Islam have held differing opinions concerning the punishment for this abominable practice... should both the active and passive participants be put to death? While such punishments may seem cruel, they have been suggested to maintain the purity of the Islamic society."¹² *The Lawful and the Prohibited in Islam* was banned by the French Ministry of the Interior in 1996.¹³

Al-Qaradawi has written on wife-beating that when a husband "senses that feelings of disobedience and rebelliousness are rising against him in his wife," he should first reason with her, and if that is unsuccessful, refuse sexual relations with her. But, he argues, "If this approach fails, it is permissible for him to beat her lightly with his hands, avoiding her face and other sensitive areas."¹⁴



Yusuf Al-Qaradawi, head of the European Council for Fatawa and Research (ECFR), with colleagues

Al-Qaradawi has commented as follows on female genital mutilation (FGM):¹⁵ "Actually, this is a controversial issue among jurists and even among doctors. It has sparked off fierce debate in Egypt whereby scholars and doctors are split into proponents and opponents.

"However, the most moderate opinion and the most likely one to be correct is in favor of practising circumcision in the moderate Islamic way indicated in some of the Prophet's *hadiths* – even though such *hadiths* are not confirmed to be authentic. It is reported that the Prophet (peace and blessings be upon him) said to a midwife: 'Reduce the size of the clitoris but do not exceed the limit, for that is better for her health and is preferred by husbands.'

"The *hadith* indicates that circumcision is better for a woman's health and it enhances her conjugal relation with her husband. It's noteworthy that the Prophet's saying 'do not exceed the limit' means 'do not totally remove the clitoris'...

"Actually, Muslim countries differ over the issue of female circumcision; some countries sanction it whereas others do not. Anyhow, it is not obligatory, whoever finds it serving the interest of his daughters should do it, and I personally support this under the current circumstances in the modern world. But whoever chooses not to do it is not considered to have committed a sin for it is mainly meant to dignify women as held by scholars."

Jamal Badawi, a colleague of Al-Qaradawi in the European Council for Fatawa and Research (ECFR) has produced several volumes on

marriage and woman in Islam. In one of his many online texts,¹⁶ Badawi cited traditional Islamic sources which discourage wife-beating, including a common moderate Muslim argument that the Prophet Muhammad himself never engaged in the practice. At the same time, he translated a Quranic reference to wife-beating as follows, with his own interpolations: “(and last) beat (tap) them (lightly).” (*Qur’an* 4:34). His intent was clearly to support wife-beating through an ameliorative form of editing. Badawi has also become notorious for his defence of polygamy.¹⁷ He argued “polygamy is neither mandatory, nor encouraged, but merely permitted.”

In his volume *The Status of Women in Islam*, Badawi wrote in 1980 in opposition to the involvement of women in politics: “According to Islam, the head of the state is no mere figurehead. He leads people in the prayers, especially on Fridays and festivities; he is continuously engaged in the process of decision-making pertaining to the security and well-being of his people. This demanding position, or any similar one, such as the Commander of the Army, is generally inconsistent with the physiological and psychological make-up of woman in general. It is a medical fact that during their monthly periods and during their pregnancies, women undergo various physiological and psychological changes. Such changes may occur during an emergency situation, thus affecting her decision, without considering the excessive strain which is

produced. Moreover, some decisions require a maximum of rationality and a minimum of emotionality – a requirement which does not coincide with the instinctive nature of women.”¹⁸ This line of argument conflicts with the experience of Turkey, Pakistan, Bangladesh, and Indonesia, all leading Muslim countries, in including women among their political leaders.

Jamal Badawi represents an example of the entry of a radical *Shariah* exponent into Western government councils. Badawi has been prominent, since 2006, in a British project, the “Radical Middle Way,” a preaching circuit of UK Muslim communities. The tour, derided by moderate Muslims and non-Muslim media alike as a “roadshow,” was financed by the British government as a supposed remedy for extremism.¹⁹

The Spanish Sheikh Mohamed Kamal Mostafá was sentenced in 2004 by a court in Catalonia to a suspended prison term of 15 months and a fine of €2,160 for statements in his book *The Woman in Islam*. Mostafá wrote on wife-beating, “[Wife-]beating must never be done in a state of exacerbated, blind rage” and that “she should not be beaten on the sensitive parts of her body, such as the face, breast, abdomen, and head. Instead, she should be beaten on the feet and hands,” with a “rod that must not be stiff, but slim and lightweight to avoid serious injury [to the woman] and no scars, or bruises are caused.” Similarly, “[the blows] must not be strong or hard since the aim is to inflict psychological suffering rather than humiliation or physical ill-treatment.” The book was condemned as an incitement to domestic violence.²⁰

An ECFR *fatwa* issued in 1998, on the recourse of the Muslim wife living in the West in case of irresolvable family disputes, called for such problems to be turned over to “family tribunals.” This *fatwa* presents a conflict with the establishment in the West of the right of women to services from public agencies dedicated to family problems.²¹

Another distinction between traditional and radical *Shariah* involves the sources of



Dr. Jamal Badawi

authority for juristic opinions. Radical *Shariah*, which made a significant appearance in the West less than a quarter of a century ago, wipes out the precedents of traditional Islam and the coexistence of religious and customary or secular law, and substitutes for them the arbitrary decisions of radical clerics, based on their own views. In this way, radicals abuse the previously-indicated mutability of *Shariah*. Radical *Shariah* treats all queries as deserving of simple answers, while traditional *Shariah* emphasises explication and study.

The aforementioned Al-Qaradawi and Badawi are notable examples of individuals, more ideologues than theologians, who produce television broadcasts, videotapes, and websites in which they answer questions from Muslims about *Shariah* issues. On radical *Shariah* websites, of which there are dozens in every language spoken by Muslims, judgments are nearly always presented with minimal reference to the Islamic past, except for truncated or misrepresented citations, and no reference at all to the common law in Western countries or to the traditional obligation of Muslim immigrants and their communities to obey the laws of non-Muslim countries. Radical *Shariah* texts like Al-Qaradawi's *The Lawful and the Prohibited in Islam* or Badawi's *The Status of Women in Islam* are written as if Western law were completely irrelevant or even nonexistent. Al-Qaradawi's *The Lawful and the Prohibited in Islam*, for



Iraqi Shia Muslims in a 2004 march display their loyalty to Ayatollah Ali Sistani

example, includes a chapter on “Non-Muslim Residents of an Islamic State,” but unlike the guidance of the Shia Sistani, says nothing about Muslim residents of a non-Muslim state.

The historical outcome in which the precedents of traditional *Shariah* were replaced in radical *Shariah* by arbitrary and improvised judgments reflects the rise of Saudi Wahhabism, which is also known to traditional Muslims as “*la-madhdhab*” or Islam without recourse to the precedents of the established schools of Islamic law. While the absence of an invariant *Shariah* is a positive value, the proliferation of improvised legal decisions in defiance of precedent is negative.

It has long been observed by Muslims trained in the religion that radical clerics and their followers are generally ignorant and even contemptuous of the heritage of the Islamic faith, its precepts, precedents, traditions, and standards. They proclaim themselves to be *shaykhs* (pious personalities), *imams* (prayer leaders), or *muftis* (administrators of religious courts) on their own authority. Jamal Badawi, for example, has no formal Islamic theological training. To fill spaces occupied in many Muslim societies by secular law, radical *Shariah* “experts” must constantly expand their version of *Shariah*, another reason for the multiplication of *Shariah* websites.

Unfortunately, this style of radical improvisation, denying precedent, is increasingly popular with young Muslims who lack religious



The Grand Masjid of Prophet Muhammad, Medina

education, associate traditional Islam with their “outdated” or “rural” elders, and do not wish to expend the necessary time and effort to seriously study their religion.

To cite some notorious examples from Saudi Arabia, *Qur’an* prescribes flogging as an Islamic punishment for only two crimes: adultery – with proof of guilt requiring four credible eyewitnesses – and libel against the honour of a woman. For adultery, no more than 100 lashes, and for libel, only 80 were mandated. (Stoning for adultery does not appear in *Qur’an*.)

In addition, Islamic jurisprudence, developed after *Qur’an*, calls for 40 to 80 lashes for drinking alcohol. But under traditional Islam, no more than 100 lashes could be administered, and only for these three violations of law. Further, flogging was to be carried out with soft straps, cloths, or small branches, with the intention of humiliation rather than infliction of pain or injury. In addition, the individual imposing the punishment was barred from striking with the full force of his arm, which was not to be extended above his own waist.

Yet the Saudi *Shariah* courts have routinely delivered sentences totaling thousands of lashes; at the beginning of 2002 a man in Jeddah was whipped 4,750 times for sexual relations with his sister-in-law. Such sentences may be carried out over an extended period of time so as not to simply kill the individual being punished, but flogging is carried out in the kingdom using wooden rods and metal cables, which cause extraordinary suffering. Saudi Prince Salman, the governor of Riyadh, is known for decreeing lashings on whim, without even consulting *Shariah* courts. In an incident involving Saudi Shia teenagers who resented insults directed against their sect by their radical Sunni schoolteachers, Prince Muqrin of Medina ordered that a dozen students be whipped 300 times each.²²

At the end of August 2007 the Saudi newspaper *Al-Yaum (The Day)* reported that a Riyadh court decreed 1,000 lashes for a Saudi youth in a morals offence.²³ In July 2008, a Saudi

biochemist, Khalid Al-Zahrani, was sentenced to 600 lashes and his woman student to 350 lashes after it was “determined” that they had conducted a romantic relationship, although exclusively by telephone, if, in reality, at all. The “legal” decision was based entirely on the declaration by the woman’s husband that he had divorced her exclusively because her professor repeatedly communicated with her.²⁴

Some aspects of radical *Shariah* as enforced in the Saudi kingdom would be amusing if the situation were not tragic. Also at the end of August 2007, the dailies *Okaz* and *Al-Riyadh* reported that authorities in the southern province of Jizan were investigating a case filed by a Saudi citizen against two young male members of the *mutawiyin* or religious militia, often miscalled a “religious police.” The complainant said his wife had undergone “mental torture” in the incident. The newspapers reported that the couple were stopped in their car “on suspicion of not being related.”²⁵ Moderate Muslims warn that this is the *Shariah* radicals wish to impose throughout the Muslim world and the spirit they wish to introduce into Muslim communities in the West.

“Parallel Shariah”

With the growth of Muslim immigration to the West, and the birth of a second and third generation of Muslims in Europe in the 20th century, a new theory of *Shariah* appeared, positioned midway between traditional and radical forms. We call this phenomenon “parallel *Shariah*”. It differs from traditional *Shariah* in that it proposes a separate legal canon from established, non-Muslim law, but to be enforced by the same Western authorities under which Muslims in the West heretofore have been mandated to live. In general, however, “parallel *Shariah*” does not embody obviously radical principles, as it is limited to personal and family law as well as, increasingly, financial transactions. It could also be seen as a counter-application of the diversity present in the Turkish and Islamised Mongol empires. “Parallel *Shariah*” appears or is presented as a compromise



Wife-beating in East Africa

or accommodating institution for the “Muslim diaspora.” But various non-Muslim commentators have viewed “parallel *Shariah*” as an “infiltration” or “usurpation” of the public legal space in the West, “creeping *Shariah*”, a “*Shariah* invasion”, and, in broad terms, as a means to inevitably introduce radical *Shariah* into non-Muslim lands, with the presumed aim of conquering or otherwise subduing the latter.

“Parallel *Shariah*” limited to personal, family, and financial matters, but with the support of state authorities, notwithstanding its restricted scope, in our view encompasses problematical elements even if it does not embody radical ideology. “Parallel *Shariah*” implies separation of Muslims living in the West from their non-Muslim neighbors. This is in itself a radical attitude. But the erection of a “parallel *Shariah*” could also open a space for the introduction of radical *Shariah* principles, since, in a Muslim-only legal structure, Muslim representatives of varying orientations could gain authority. For example, even a minimal “parallel *Shariah*” could come under the direction and administration of radicals who would exploit it to impose their own views. As will be seen in our discussion of divorce issues in the *Case Study: Britain*, below, *Shariah*-based divorce proceedings are currently dominated by radical clerics.

The phenomenon of “parallel *Shariah*” originated with radical Islamic scholars such as Al-Qaradawi²⁶ and one of his counterparts mainly



A young Taha Jabir Al-Alwani

living in the U.S., the Iraqi-born Taha Jabir Al-Alwani. In the work of Al-Alwani,²⁷ “parallel *Shariah*” is designated a “*fiqh* [Islamic legal interpretation] for minorities” [*fiqh al-aqalliyat*] i.e. a body of opinion derived from *Shariah* doctrine to govern the lives of Muslim minorities in non-Muslim lands. Al-Alwani is a graduate of Al-Azhar University, the leading Sunni religious educational institution in the world, located in Cairo. While much of his work has been carried out in the U.S., the French scholar Alexandre Caeiro has pointed out that Al-Alwani’s methodology in developing the “*fiqh* for minorities” was adopted by Al-Qaradawi for general application when the new “parallel *Shariah*” (to employ our, not Caeiro’s typology) emerged in the late 1990s. “*Fiqh* for minorities/*fiqh al-aqalliyat*” has also been described as “a special theory of jurisprudence that was formulated originally by al-Alwani and elaborated and popularised by him, Qaradawi, and many others.”²⁸ Al-Qaradawi used the term *fiqh al-aqalliyat* in publishing the first collection of *fatwas* of the fundamentalist European Council for Fatawa and Research (ECFR), formerly headquartered in Dublin and now located in Brussels, comprising 33 members, and led by Al-Qaradawi. At its second consultative session, held in Dublin in October 1998, ECFR decided to establish two regional authorities for *fatwa* issuance, one in Britain and the other in France. ECFR has played an important role in propagation of “*fiqh* for minorities/*fiqh al-aqalliyat*”. “Parallel *Shariah*” or “*fiqh* for minorities/*fiqh al-aqalliyat*” has also been titled

“lawful Islamism,” “*fiqh* of reality,” “*fiqh* of balances,” “reformed *fiqh*” and “European *fiqh*”.²⁹

Al-Alwani’s presentation of the “*fiqh* for minorities” was elaborated in a vocabulary that was, firstly, radical in its assumptions about Islamic history. Al-Alwani argued fancifully that in the past “Muslims were the dominant world power, feared and respected by all nations. No other power would dare attack individual Muslims or infringe the integrity of Islam... The whole world was open to them as a residence and a place of worship... The more powerful and ambitious migrants of comfortably independent means would travel even to non-Muslim lands, where they would establish their own Muslim emirates, existing as Muslim oases or islands in the middle of the non-Muslim oceans. Some communities, like those in the south of France, northern Italy, and other places, were to survive for a long time”.³⁰ This vision of the Muslim heritage seemed redolent of an intent to subvert non-Muslim lands by the establishment of Islamic enclaves such as many non-Muslim commentators now claim to perceive in Muslim immigration to the West. Indeed, rather than an evocation of the past it seemed to be a prediction of the future; but it was also absurdly fictive, even fantastical. Japan, Tibet, and Mongolia could never be described as countries that “feared and respected Islam;” nor could England, Germany, Scandinavia, or considerable areas of Africa. Muslim communities in southern France were of short, rather than long history, and the very existence of Muslim society in northern Italy is highly doubtful.

Al-Alwani’s “*fiqh* for minorities,” when unexamined, might imply “reasonable accommodation” of religious belief and practice. “Reasonable accommodation” has become an accepted legal principle in many developed nations and is embodied in U.S. administrative directives for protection against religious discrimination.³¹ The Centre for Islamic Pluralism includes practitioners in employment law and participates as a consultant to the U.S.

federal authorities on “reasonable accommodation” of Muslims in the U.S. workplace. Thus, under British and American protections for the free exercise of religion, some religious believers are already granted exemptions for certain principles and practices of their faith so long as they do not interfere with the good order of society (Sikh policemen in Britain may wear turbans, religiously-inspired conscientious objectors to war or abortion are not required to participate in those acts, and so on).

But as Al-Alwani wrote, “ ‘*fiqh* for minorities’ is not meant to give minorities privileges or concessions not available to Muslim majorities, on the contrary, it aims to protect minorities as representatives or examples of Muslim society in the countries in which they live.” This conception is unambiguously separatist.

Such a discourse far exceeds the Western concept of “reasonable accommodation.” Rather, it suggests that Western legal canons such as civil marriage and divorce, as well as electoral democracy, which are absent from or inconsistent in many Muslim majority societies, are inappropriate for Muslims living in the West. This is a consistent source of tension in the discussion of *Shariah* in the West: while “reasonable accommodation” and traditional *Shariah* for immigrant-based communities in the West are founded on a *de minimis* standard, the vocabulary of Al-Alwani’s “*fiqh* for minorities” was maximal, and easily seemed to assume an aggressive, invasive spirit. Indeed, Al-Alwani declared candidly that a “*fiqh* for minorities” aimed at Islamisation of the West, by attracting non-Muslims to the religion of Islam rather than protecting the rights of Muslims.

Al-Alwani’s argument was also radical in that it declared traditional *Shariah*, which, let us recall, commanded that Muslim migrants obey the laws of countries in which they settled, incorrect in addressing the status of Muslims in the West. He advocated a “new” approach that might appear original and therefore satisfying of a superficial Western call for reform in Islam, but

in reality reproduced the previously-described radical habit of rejecting precedents and promoting improvisation in juristic thought. Al-Alwani called for a “new methodology” because, according to him, traditional Islam was limited by its “introversion incompatible with the universality of Islam” and was “localised and provincial;” i.e. it was applied in Muslim societies rather than the whole world. In addition, Al-Alwani proclaimed the superiority of *Shariah* over other areas of Islamic thought.

In yet another revelation of a superlative ignorance, Al-Alwani wrote that classical Islamic history, which he described as “the ancient world,” allegedly “had no concept or experience of international law or diplomatic conventions obliging host countries to protect immigrants... except in certain distinguishing matters,” the latter which he left unspecified. Yet such “distinguishing matters” were by no means trivial. If Al-Alwani had even the barest knowledge of Ottoman history, he would know that the Turkish sultans contracted extensive treaties with a range of European powers, including the Venetian Republic and its associated trading partners in the Adriatic, to cite but one example. In perhaps the most bizarre of Al-Alwani’s convoluted meditations, he condemned the Algerian nationalists of the 20th century for rejecting French citizenship, writing that such an attitude reflected a “‘culture of conflict’ which Muslim minorities today can better do without”.

This argument conforms to a general tendency in the work of “parallel *Shariah*” advocates to allege that its introduction would unite Muslims to the West and reduce polarization. But it seems obvious that such a scheme would have a more problematical, Islamizing goal. In place of supporting the Algerian nationalist movement, Al-Alwani seems to suggest that Algerian Muslims should have accepted French nationality and then attempted to take control of France. The radicals therefore would use accommodation of Islam to promote subordination to Islam. While some non-Muslim

commentators equate such a strategy with *jihad* and conquest, it, perhaps predictably, has no precedent in Islamic history. Some Muslim scholars even criticised Al-Alwani’s “*fiqh* for minorities/*fiqh al-aqalliyat*” as providing more rights for Muslims in the non-Muslim countries than in the Muslim societies.

In addition to calling for Muslim immigrant acceptance of non-Muslim laws and customs and declaring *Shariah* void of authority in non-Muslim lands, traditional *Shariah* forbids antagonizing the local majority in non-Muslim societies. Through most of Islamic history, *jihad* against non-Muslims referred to warfare between states and armies, not infiltration and conspiracy. Past Islamisation was accomplished either through armed invasion of territory and establishment of Muslim administration in which acceptance of Islam reflected various incentives, or through spiritual missionization. Thus, while the Arabs and Persians were conquered by the Muslims and adapted *en masse* to the power of a new ruling religion,³² the Turks, Indians, and Indonesians were brought voluntarily to Islam through preaching. The Turks in particular have never been conquered by any foreign nation.

Al-Alwani’s writing may be summed up in the following comment: “Islam knows no geographic boundaries; *dar-al-Islam* [the global realm of Islam] is anywhere a Muslim can live in peace and security, even if he lives among a non-Muslim majority.” Al-Alwani cites obscure, earlier Islamic scholars who argued that it was preferable for a Muslim to settle and live in a non-Muslim country with free practise of religion, because there more people could be drawn to Islam by the individual’s presence. This attitude in which every Muslim is to be treated as missionary for the religion was long inconsistent with reality, given the greater rate of immigration of ordinary and secular Muslims to the West in search of economic opportunities as well as to escape rigid clerical and ideological dictates. But in the reactionary-utopian method of Wahhabis and other fundamentalists this dangerous mentality has been reintroduced.

The proposition of Al-Alwani that anywhere a Muslim lives is Islamic territory is clearly colonialistic and expansionist. For those with experience in the Balkan Wars of 1991-99, the argument of Al-Alwani in favor of “*fiqh* for minorities” bizarrely evokes the claim of Serbian extremists that anywhere Serbs lived was Serb territory. Unfortunately, some Western academics, in addition to less discerning commentators, appear to have been seduced by such a “moderate” phrasing. For example, the German Rohe seemed satisfied to summarise the conception as follows: “in our days our earth is simply ‘one house’ for mankind as a whole, and... every Muslim is entitled to live in any part of the world and is responsible for the sake of the society he/she is living in”.³³ To summarise, the theory of “parallel *Shariah*” would extend the realm of *Shariah* beyond that of Islam, by abolishing the traditional division between a Muslim world in which *Shariah* could be enforced and a non-Muslim area in which *Shariah* would be considered null according to traditional scholars. But in place of a separatism dividing Muslim and non-Muslim sectors of the globe, “parallel *Shariah*” would erect a new barrier of separation *within* non-Muslim societies, between Muslims and their neighbors.

While reinforcement of separatist attitudes originates in the last three centuries with the Saudi-financed global Wahhabi movement, they have been recapitulated in other fundamentalist Islamic phenomena. Thus, although Wahhabism played a role in importing such conceptions to France, utilizing Arab migrants from Morocco and Algeria, another significant actor in the offensive among ordinary Arabs has been the Muslim Brotherhood. In Britain, the ideological environment for “parallel *Shariah*” agitation grew out of the British Asian Muslim community, drawn from the Indian subcontinent, and its jihadist component, mainly in the form of adherence to the fundamentalist and separatist Deobandi interpretation of Islam, which produced the Taliban in Afghanistan. In Germany, this outlook is supported by “soft-

fundamentalist” factions within the resurgent Islamist movement originating in Turkey. In the United States, one observes a triangular approach involving Saudi financing, Pakistani activists and recruiters, and Brotherhood literature. All such Sunni fundamentalists may be described as *takfiris*, in that they seek to exercise *takfir*, or exclusion from the body of Islam as disbelievers, against Muslims who disagree with them.

As outlined by Caeiro, the discussion of “parallel *Shariah*” began with an ECFR discussion in 1997 of the traditional Islamic ban on investment for earning of interest (*riba*). This debate reflected the European introduction of “Islamic banking,” which we discuss as a religious question in chapter 10 of this study. The Council held its first consultative session in August 1998 in Sarajevo, Bosnia-Herzegovina – an event that was largely ignored by the Bosnian Muslim public and which contrasted with Bosnian Muslim reality in that Bosnia-Herzegovina is governed under European and post-Soviet civil law. ECFR, however, has consistently included only one representative of indigenous European Islamic culture, Bosnian chief cleric Mustafa efendija Cerić. The rest of its 33 members have comprised four Saudis (even though few Saudis live in Europe), as well as 12 from Arab and African countries, plus Pakistan, while the others represent immigrant communities, mainly Arab, in Western Europe. Russia alone has more Muslims than many Arab states, and is unrepresented in ECFR, as are mainstream French Muslims, and the overwhelming majority of Turks and Kurds living in Europe.

But ECFR membership is difficult to confirm; a 2002 roster in French included the grand mufti of Albania, Haxhihafiz Sabri Koci, a noted and proven moderate of pro-Western views, as well as the grand mufti of Bulgaria, Mustafa Alic Hadzhi, names missing from Bosnian- and Albanian-language listing.³⁴ The absence of these figures from Balkan area editions may be taken as an indication that these individuals did not join ECFR. (It should be

noted that Albania is a Muslim-majority country while Bulgaria's Muslims are a minority.) ECFR members are, it seems, upset by claims that they want to use non-Arabs to advance a radical agenda. The website *www.islamonline.net* reported the statement of Sheikh Husain Halawa, the current ECFR secretary general: "The ECFR secretary general denied charges that the organization is hijacked by Arabs to the extent of alienating some European Muslims".³⁵ ECFR has issued two volumes of *fatwas*, none of which specifically govern relations between Muslims and non-Muslim legal authorities, and the content of which appear, at first, to imply no particularly aggressive attitude. They betray, however, a profound fundamentalist bias. These are discussed in chapter 9 of this survey.

Investment for earning of interest is a clear example in which *Shariah* and Western law conflict, since such investment is rigorously illegal in *Shariah*. In Cairo's description, contemporary attitudes among Western Muslims gravitate between literalism, pragmatism, and a liberalism based on *maslaha* or public betterment, in which Muslim standards may be derived from non-Muslim practice. Literalists condemn investment for earning of interest as extremely sinful, while pragmatists find ways to justify it as a feature of life in the West. Rohe³⁶ has noted that in financial matters ECFR has emphasised individual religious duties rather than collective institutional canons.

The ECFR issued its *fatwa* on payment of interest in 1999, addressing whether Muslims could purchase homes with mortgages, which had previously been forbidden by most Islamic clerics in Europe. Four ECFR founders from France, comprising Ahmed Jaballah, a Tunisian, and three of Algerian origin, Al-Arabi Bichri, Tahir Mahdi, and Unis Qurqah, initiated the discussion. In sum, the ECFR members found that payment of interest in housing transactions was permissible to improve the situation of Muslims in establishing residences in Europe. Al-Alwani's logic, however, in promulgating "*fiqh* for minorities" far exceeded the need to find appropriate housing, but

rather supported the project of Muslims to maintain a presence that would advance Islamisation. By contrast, ECFR repeated the traditional argument that establishment of Islamic law is not an obligation of Muslims living in non-Muslim lands.

The 1999 *fatwa* on house mortgages appears as the beginning of the broad penetration of "parallel *Shariah*" in the West. But it was not greeted with universal enthusiasm, especially by radicals. A Saudi *shaykh* close to the Muslim Brotherhood, Mahmud bin Rida Murad, condemned the ECFR *fatwa* on mortgages as permitting Muslims in the West not only to engage in all sorts of forbidden vices, including consumption of alcohol, but to adopt Western habits, especially those involving economic achievement, as worthy of emulation by Islamic believers. Murad further expressed an ultrafundamentalist posture, demanding that Muslims refrain from any migration to non-Muslim lands.

In addition, the modernist Islamic intellectual Tariq Ramadan criticised the *fatwa* on mortgages for making possible the rise of a privileged class of property-owning "*bourgeois* Muslims" in the West; his argument has been summarised as calling for more rather than less observance of *Shariah* by Muslims in the West, on the basis that it would serve as an obstacle to seduction by Western prosperity, counterposed to poverty in the Islamic world, in drawing Muslim



Tariq Ramadan



migrants away from their religion. As an alternative, Ramadan, who has cooperated with ECFR, called for the integration of Western law and *Shariah*, which appears as little more than a variation on “parallel *Shariah*.” Ramadan also supports, as an expression of universalism, the position of Al-Alwani according to which the whole world belongs to Islam. Other critics of the *fatwa* called for extension of “Islamic finance” as an alternative to the legitimisation of mortgages.

Finally, the ECFR *fatwa* on mortgages gained more acceptance in France than in Britain.

This is interesting in that Islamic fundamentalism appears to have maintained a stronger hold among Britain’s majority of Indo-Pakistani migrants, supported by powerful jihadist organizations and influence in the Pakistani government, than among France’s North African community, which is alienated from radical Islam by two factors. The first is the division of French-North African Muslims between Arabs, who may adhere to *Shariah*, and Berbers (Amazigh), some of whom, reportedly originating in the Moroccan Rif mountains and the Algerian region of Kabylie, tenaciously support their own tradition of customary law. Amazigh are an indigenous people linguistically related to but long preceding the arrival in the region of Jews and Arabs, and are characterised by significant discontent with Arab political domination. The other matter is the aftermath of the “second Algerian war”, beginning in 1991 and pitting violent Islamists against the Algerian government.

The proposed introduction of “parallel *Shariah*” generally assumes that Islamic law would be enforced by Western governments. But introduction of “parallel *Shariah*” in countries with allowance for “reasonable accommodation” does not increase religious liberties; rather, it threatens to restrict them. As Rohe, whose views are not beyond criticism, has observed, “Many

Muslims in Europe still tend to seek practical solutions for organising their lives in accordance with the demands of European legal orders and Islamic religious commands. It is only within the last few years that Muslims have also tried to formulate theoretical statements to clarify their positions with regard to possible conflicts between legal and religious norms, and to find adequate solutions for such conflicts. Furthermore, a considerable number of Muslims are not particularly interested in performing religious practices while not denying their Muslim identity as such. Others are attached to Sufi (mystic) beliefs and practices and consider the ‘superficial’ rules of mediaeval *fiqh*... to deserve little importance.”³⁷ This observation succinctly expresses the findings of the Centre for Islamic Pluralism about the *Shariah* campaign in Western Europe.

NOTES

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- 6 Directorate General External Policies of the [European] Union, Policy Department External Policies, Briefing Paper, “Honour Killing Its Causes and Consequences: Suggested Strategies for the European Parliament,” Brussels, European Parliament, 2007.
- 7 Ibn Naqib, Ahmad, *Reliance of the Traveller*, op. cit., and Ibn Anas, Malik, *Al-Muwatta*, op. cit.
- 8 Hadi, Abdul [based on the work of Ayatollah Ali Sistani], op. cit.
- 9 Rohe, op. cit.
- 10 Wynne-Jones, Jonathan, “Bishop: No-go zones for Christians,” *The Sunday Telegraph* [London], January 6, 2008; Hall, Macer, “Fury at ‘no-go’ areas ruled by the fanatics,” *The Daily Express* [London], January 7, 2008; Maher, Shiraz, “Muslim Britain is becoming one big no-go area,” *The Sunday Times* [London], January 13, 2008.
- 11 *Al-Watan*, August 4, 2007, as monitored by Centre for Islamic Pluralism.
- 12 Al-Qaradawi, Yusuf, *The Lawful and the Prohibited in Islam*, op. cit..
- 13 Roy, Olivier, *Globalised Islam*, New York, Columbia U.P., 2004.
- 14 Al-Qaradawi, op. cit, p. 205.
- 15 Al-Qaradawi, Yusuf, “Islamic Ruling on Female

Circumcision,” at www.islamonline.net.

16 Badawi, Jamal, “Wife beating?,” at http://islamic-world.net/sister/wife_beating.htm.

17 See www.islamfortoday.com/polygamy5.htm.

18 See www.islamawareness.net/Women/s_women.html.

19 Badawi’s biography appears at the *Radical Middle Way* site: www.radicalmiddleway.co.uk/.

20 Unsigned, “El imam de Fuengirola se proclama ‘defensor de las mujeres’ en el juicio contra él por discriminación,” *El Mundo* [Madrid], December 9, 2003; Unsigned, “15 meses de cárcel para el imán que incitó a la violencia contra las mujeres,” *El Mundo*, January 14, 2004; Unsigned, “El imán de Fuengirola no recurre la pena por incitar a los malos tratos a la mujer,” *La Vanguardia* [Barcelona], February 26, 2004.

21 Conseil européen des fatwas et de la recherche, *Recueil de fatwas*, Série no. 1, op. cit., pp. 146-148.

22 From reports by a human-rights monitoring group, The Saudi Institute, *Torture in Saudi Arabia and Religious Freedom in the Kingdom of Saudi Arabia*, McLean, Va., 2002.

23 *Al-Yaum*, August 27, 2007, as monitored by the Centre for Islamic Pluralism.

24 Unsigned, “Saudi appeals court upholds flogging researchers,” Reuters, July 30, 2008.

25 *Okaz* and *Al-Riyadh*, August 29, 2007, as monitored by Centre for Islamic Pluralism.

26 Caeiro, Alexandre, “The Social Construction of Shari’a: Bank Interest, Home Purchase, and Islamic Norms in the West,” in Special Theme Issue – Shari’a in Europe, *Die Welt Des Islams*.

27 Al-Alwani, Taha Jaber, *Towards a Fiqh for Minorities*, London/Washington, International Institute of Islamic Thought, 2003.

28 Brown, Eric, “After the Ramadan Affair: New Trends in Islamism in the West,” *Current Trends in Islamist Ideology* [Washington], , v. 2, 2005.

29 Caeiro, op. cit.

30 Al-Alwani cites these historical claims to the work of Shakib Arslani (1869-1946), a Lebanese Druze intellectual prominent in pan-Islamism. Arslani’s writings are, however, little-known in the West. See Cleveland, William L., *Islam Against the West*, Austin, University of Texas Press, 1985.

31 See U.S. Equal Employment Opportunity Commission, *Guidelines on Discrimination Because of Religion*, 29 C.F.R. Part 1605, and *Compliance Manual*, Section 12, Religious Discrimination, July 2008.

32 Notwithstanding prevalent misconceptions in the West, “conversion by the sword” or other forms of compulsion in religion are explicitly banned in *Qur’an*.

33 Rohe, op. cit. A somewhat benign view of “*fiqh* for minorities”/“*fiqh al-aqalliyat*” was also taken in Fishman, Shammai, “*Fiqh Al-Aqalliyat: A Legal Theory for Muslim Minorities*,” Washington, Hudson Institute, 2006.

34 See footnote 3 above for bibliographic references to these divergent sources.

35 Al-Halawani, Ali, “ECFR Marks 10 Years of European Fatwas,” May 17, 2007, at www.islamonline.net/.

36 Rohe, cited in Caeiro, op. cit.

37 Rohe, op. cit.

1. Case Study: Britain



Introduction

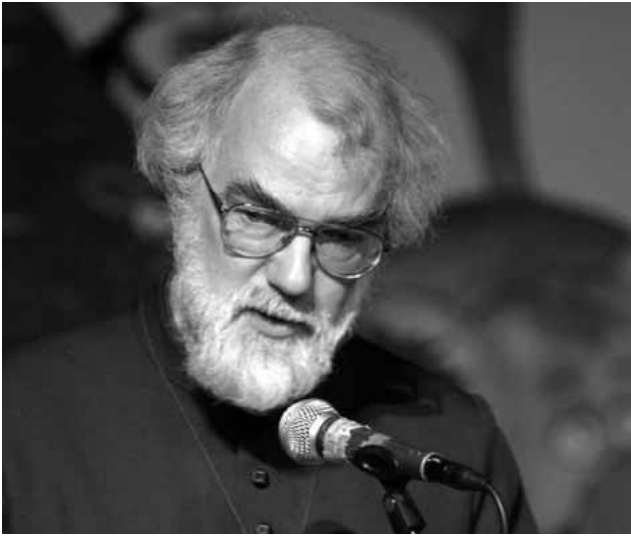
Britain has a Muslim population between 1.5 and 2 million, supporting about 1,600 mosques. This accounts for only 2.5 percent of the total population of 60 million in the United Kingdom, but Muslims represent a demographic bulge in certain areas of England. Muslim immigration to Britain has taken place over three generations, expanding in the 1950s. Most significantly, Britain has become the epicentre of radical Islam in Western Europe. Radical *Shariah* rhetoric is common in English cities with large Muslim communities: London (14 percent Muslim), Birmingham (15 percent), Bradford (17 percent), Leicester (12 percent) and Oldham (11 percent). In all these cities, radical *Shariah* agitation takes place in tandem with jihadist financing and recruitment activity, mainly introduced from

Pakistan, the original country of most British Muslims and their progenitors.

As much as three-quarters of the British Muslim population are said to originate in Mirpur, a single district of Pakistan-controlled Kashmir. Mirpuris, as they are known, are overrepresented in British Muslim politics, accounting for numerous lord mayors or former lord mayors in Bradford and other immigrant centres. Lord Nazir Ahmed, a British peer and controversial figure regarding his alignment with radicals, is also Mirpuri. Because of their Kashmiri origins, many Mirpuris tend to a jihadist mentality against India. Radical attitudes toward the *British*, as opposed to the Indian authorities are, however, a new phenomenon even among Mirpuris. Considerable economic assets have been transferred from Britain to Mirpur.

The response of the authorities in Britain to radical *Shariah* ideology has been ambivalent. While British leaders have acted firmly against the most extreme elements in British Islam – including a group with the notable name “Supporters of Shariah” – the authorities under Tony Blair also engaged with purported “moderates” in attempting to substitute a diluted form of radical Islam for its more violent expression. British officials appeared to believe that, based on their traditions of free speech, radical *rhetoric* was acceptable but radical *action* was not.

In some instances, this appeared to be little more than a bureaucratic reflex based on confidence that the situation of radical Islam in Britain was under control and that “best practices” in interfaith relations would resolve it. But the Islamist global offensive currently



Archbishop Rowan Williams

escapes Western containment, cannot be dealt with mechanically, and few “practices” – in a context where so far the only options for governments have been direct combat or passivity – can yet be described as “best”. As this study was completed it remained to be seen whether the government of Prime Minister Gordon Brown would adopt a clearer and more determined policy in dealing with Islamist ideology.

The CIP mission in the UK was unintentionally but fortuitously facilitated by the eruption of controversy over *Shariah* in Britain in February 2008, when Archbishop of Canterbury Rowan Williams, head of the Anglican Communion, called for acceptance of some (unspecified) aspects of *Shariah* alongside existing civil law in the United Kingdom.³⁸ With the CIP survey undertaken in the immediate aftermath of Williams’ comments, British Muslim interviewees were primed for comment on the issue.

Archbishop Williams doubtless thought he was making a positive contribution to interfaith relations when he gave a speech suggesting that some form of official recognition in Britain for elements of *Shariah* was “unavoidable”. But his remarks were shocking to many of his religious congregants as well as other fellow-citizens. Only four days afterward, Archbishop Williams, insisting he had been

misunderstood, blamed “our current style of electronic global communication” for the ensuing uproar. But he refused to correct what he had said.

Britons were disturbed by more than Williams’s apparent naiveté. Many Muslim immigrants came to the West to escape the excesses of Islamic ideology in countries like Pakistan, where extremism is advancing. Imposition of *Shariah* could deny these immigrants’ children opportunities to become successful in British society or elsewhere in the West. The archbishop ignored how British Muslim radicals raise the demand for *Shariah* as an ideological banner and, as described in our analysis of Al-Alwani’s “*fiqh* for minorities,” as a method for Islamisation of the non-Muslim populace.

Soon afterward, at the beginning of July 2008, the misguided advocacy of Rowan Williams was supplemented by a similar appeal from Britain’s Lord Chief Justice, Baron Phillips of Worth Matravers.³⁹ The Lord Chief Justice is the rough equivalent of the U.S. Chief Justice of the Supreme Court, but with more latitude for public commentary.

Phillips declared that family and business disputes could be submitted to *Shariah* mediation in Britain. He was careful to specify that “*hudud*” punishments for moral and criminal charges, such as flogging, stoning of adulterers, cutting off the hands of thieves, and capital sentences could not be imposed under *Shariah* in Britain. But even his language regarding marital and commercial matters was speculative and appeared, as we found, unhelpful to moderate Muslims.

At first glance, letting religious courts handle family and business disputes through voluntary mediation might seem harmless, and radical Muslim advocates of using *Shariah* in Western countries often cite the precedent under which a Jewish religious court, or *beth din*, will settle such disputes between community members who agree to have them so resolved. In addition, introduction of Islamic arbitration or mediation does not involve the erection of a new legal forum, but extension of an existing

institution. Yet this assumes a lack of coercion, and free recourse to the civil justice system as an alternative to “Islamic mediation,” while we found that such conditions seldom prevail when dealing with certain powerful and well-funded radical Islamic clerics. Even sharp critics of Islamism may be willing to accept voluntary *Shariah*-based mediation instead of introduction of *Shariah* as a settled legal structure, but some moderate Muslims consistently express concern that such mediation would enable radicals to extend their influence in the community.

After the Williams statement, local Muslim leaders in Britain insistently assured us that the demand for *Shariah* is merely an ideological slogan to mobilise young Muslims. Often, the targeted audience has no idea what *Shariah* is. In a visit to a mosque in Bolton, England, we were surprised when a discussion of Williams’ comments elicited a simple question from a young man who had just finished his prayer: “What is *Shariah*?” The young Muslim’s bafflement was unfeigned.

In our view, the fixation on *Shariah* is commoner among members of the British Muslim and non-Muslim elite than among ordinary Muslims. In an example of its “upscale” appeal, *Shariah* rhetoric has become a prominent topic among Muslim medical students in Britain, some of who now refuse to attend classes on alcoholism, sexually transmitted diseases, and

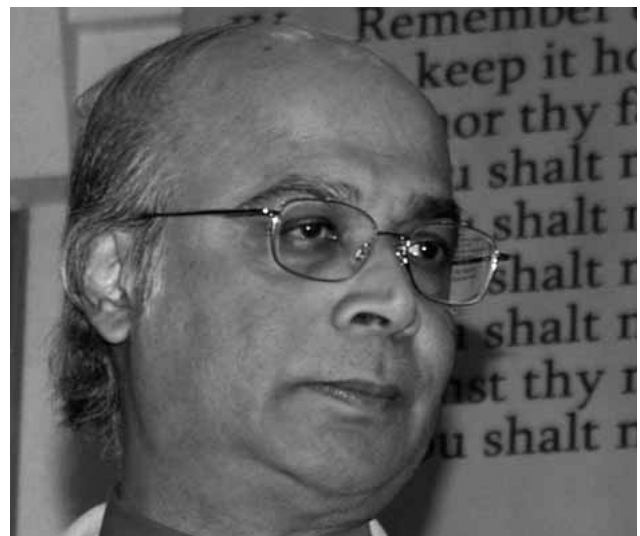
other problems produced by practices banned in Islam. Some even refuse to wash up with alcohol – the use of which for cleaning purposes was never prohibited by *Shariah* (as described in the supplement beginning on page 56). Jurists like Lord Chief Justice, Baron Phillips, no less than his clerical counterpart, Archbishop Williams, should have listened to the many British Muslims who reject *Shariah* and other Islamist penetration into their community life. We judge that in the name of sensitivity, non-Muslim advocates for *Shariah* are making things worse for both Muslims and non-Muslims in Britain.

The Historical Background: Emergence of *Shariah* as an Issue in Britain

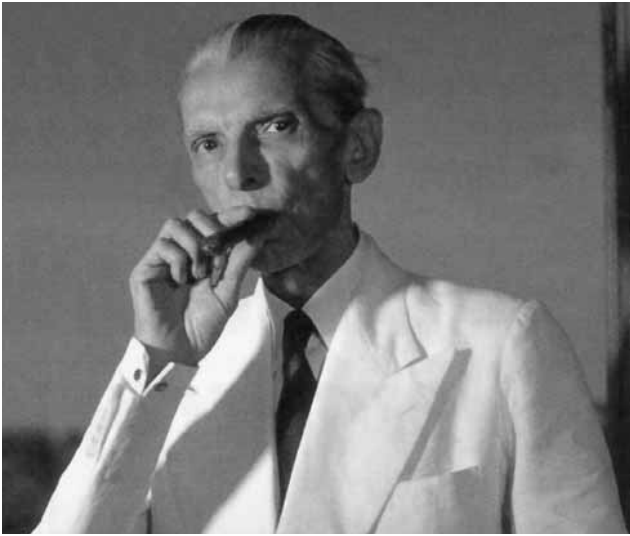
A media discussion that would become a wide and deep stream of debate began in earnest in 1989, when Church of England bishop of Rochester Michael Nazir-Ali, who was born in Pakistan, commented on Islam in Britain and *Shariah* issues in *The Independent*, a leading daily.⁴⁰ Bishop Nazir-Ali’s statement came in response to a British Broadcasting Corporation program on religion. Exceptionally prescient and articulate, Bishop Nazir-Ali summarised the emergence of interreligious problems of Britain in a manner that remains relevant today, and merits citation at length. He stated, “the BBC on 31 July was hugely successful in its portrayal of all religions as bigotry and of all religious people



Lord Chief Justice Baron Phillips of Worth Matravers



Bishop Nazir-Ali



Muhammad Ali Jinnah, the founder of Pakistan

as fanatical fundamentalists. As an exercise in polemics and as an apology for the creed of secular humanism, it made its impact. But this kind of sweeping condemnation of Islam is both undeserved and bound to make matters worse. A more tolerant Islam must be fundamentally Islamic. Though it must relate to Enlightenment ideas, it cannot grow out of them.”

Bishop Nazir-Ali stipulated, “It is certainly the case that bigots, political adventurers and the like, in the name of religion, have restricted the freedom of others to express themselves with integrity or, indeed, at all. At the same time, it needs to be said that there have been numerous religious men and women who have encouraged creativity in the arts and in literature because of their religious convictions. Also, many pioneering scientists have been religious believers and their scientific work has often been profoundly related to their religious belief.

“I am extremely disturbed by the way in which ‘Islamic fundamentalism’ is used in the media as a synonym for ‘Islam.’ It must be admitted that many in the Muslim world and beyond have provided enough causes for such confusion to emerge. Newly-rich Muslim states, both conservative and revolutionary, have promoted fundamentalist Islam both at home and abroad. The media, understandably, have focused on the more dramatic consequences of these developments.

“All of this, however, is at the expense of a long and honourable liberal tradition within the Islamic body-politic. I have in the past highlighted the extremely free-thinking attitudes of the medieval ‘Islamic’ philosophers. Today’s Muslim leaders, even fundamentalist leaders, are well aware of the work of these philosophers. Islamic mysticism, or Sufism, is another way which seeks to ‘interiorise’ the teachings of Islam so that the devotee is converted to personal commitment and to have a love of God and of one’s neighbour.

“In the modern period, the Islamic liberal tradition has been concerned with the problem of relating the revelation in the Koran to the modern world. Already in the eighteenth century, Shah Waliullah of Delhi was engaged in a hermeneutical exercise which sought to distinguish what was of eternal value in the work of a prophet from what was simply contextual.

“Waliullah points out, for example, that the way in which a prophet’s teaching is enforced in the society where the teaching is first given will be different from the way in which that same teaching is enforced in other societies and at other times. In the nineteenth century, both Sir Syed Ahmad Khan and Amir Ali tried to develop an exegesis of the Koran and of prophetic traditions which was to them consonant with science and the contemporary scientific world-view.

“The great reformers of the twentieth century, people such as Muhammad Abduh in Egypt and Allama Iqbal in India, were more concerned with identifying those principles of development in the Shariah, or Islamic Law, which would make it an effective legal instrument for the twentieth century. These people were often nationalists as well and many modern, Muslim states owe their present polity, if not their existence, to them.

“It is perhaps worth remembering that the founders of many such states, people such as Muhammad Ali Jinnah, the founder of Pakistan, were deeply imbued with ideals from the Islamic liberal tradition. This is why Pakistan, for example, was not established as an Islamic state.

Jinnah, having secured a home for [the] Muslims of India, wanted it to be a home for other religious groups as well. He did not want Christians, Hindus and Jews to experience the deprivation and the alienation which he felt the Muslims of undivided India had experienced.

“In the recent debate on the place of Islam in Western societies, it has often been assumed that Islam is facing the challenge of contemporary issues for the first time. This may be true of some issues but it is not of others. The reformers have been particularly concerned that a democratic polity should develop which draws both upon Muslim tradition and modern constitutional thought. The rights of women have been another preoccupation. Provision has had to be made for women to be enfranchised, educated and employed. Special family laws have been promulgated to protect women and children in case of divorce.

“Restrictions have been placed on polygamy and on arbitrary divorce by the husband. Most of these reforms have been resisted by fundamentalists and other conservatives. In some cases there have been reversals in the fortunes of the reformers but they have persisted. During the previous regime in Pakistan, the best organised lobby for the defence of human rights was that of the women’s organizations which had come together to prevent any further erosion of women’s rights and freedom.

“Progressive Muslims and others in Muslim countries are struggling for the very causes, such as the emancipation of women, freedom of choice and of expression and the re-interpretation of the Shariah, which are at issue in the West today. Paradoxically, racial prejudice and disadvantage have so ‘ghetto-ised’ the Muslim communities in Britain that fundamentalism has seen its opportunity and taken root in this fertile soil.

“But in England there is a strong Common Law tradition. Surely this can be developed in such a way that it both safeguards cultural identity and protects individuals from the tyranny of the

group? Muslims have the right to campaign peacefully for the development of this tradition in ways which are consonant with the *Shariah*. At the same time, they must recognise the fact that this tradition already has certain values inherent in it and also that other groups and individuals in society are trying to influence its development. There is room, therefore, for democratic debate and complementarity⁴¹ but not for dogma and exclusivity.”

In the 1990s, new issues involving *Shariah* appeared in Britain. One was that of “Islamic finance”. In 1993, the *Financial Times* reported,⁴² “Western banks, especially in London, are carving out a major niche market in short-term Islamic trade finance transactions and medium-to-longer term Islamic leasing (*ijara*), involving mainly aircraft and shipping purchases. Indeed, the extent of the involvement of banks, such as Kleinwort Benson, ANZ Grindlays and Citibank, in *morabaha* (cost-plus financing) and *ijara* transactions is so large that all these banks have now set up specialised Islamic banking units. These operate separately from the rest of the banks’ conventional activities, but draw on their trade finance expertise and long-standing contacts, to originate and structure *morabaha* and *ijara* transactions relating to commodities and goods, such as oil, petrochemicals, agricultural products, aircraft, tankers and capital equipment.

“The western banks, which are just as much on the learning curve of Islamic banking as some of their Islamic counterparts, are adapting remarkably well and are even taking to the idea of submitting their transactions for scrutiny to a *Shariah* (Islamic Law) Council to check the transactions are permissible under Islamic interest-free principles.

“‘We have regular meetings with both our clients and their Shariah Councils or experts,’ says one banker. ‘I handle no interest-bearing funds and our unit works in a completely separate area. In the past, a transaction could easily have taken 12 months to put together. Today, six to eight weeks is normal for a *morabaha* transaction.’ “

“Such is the commitment of these western banks to developing their Islamic banking business, that some, such as Kleinwort Benson, are also acquiring an in-house R&D capability in developing new Islamic trade finance and other products. Perhaps more importantly, some of these units are also researching products for the formation of an Islamic capital market, without which Islamic banking cannot progress beyond its current short-term activities.

“An Islamic capital market and interbank system would open vast new opportunities in both longer-term trade and project-related financing and in investment banking, bankers argue.

“The involvement of these banks in Islamic banking goes back to the petro-dollar boom years of the 1970s and early 1980s. Kleinwort Benson concluded its first *morabaha* trade transaction in 1982.

“As a long-established merchant bank, Kleinwort Benson has relationships with many of the merchant families in the Middle East. As such, its client base is strong in the Gulf, although it also has structured a number of deals for clients in North Africa and Asia, as well as in

industrialised countries...

“ANZ Grindlays, for instance, is fast becoming a major player in Pakistan, where the old Grindlays bank subsidiary has been involved in Islamic banking for a number of years, especially after the then President Zia-ul-Haq decided to Islamise the entire banking sector, thus technically forcing western banks based in Pakistan to adapt or cease their involvement...

“Islamic banks, such as Al-Rajhi Investment and Banking Corporation (ARABIC) of Saudi Arabia, even arrange aircraft lease finance for non-Muslim clients.” Al-Rajhi interests have been named in terrorism investigations since the events of September 11, 2001.⁴³

In 1997 *Shariah*-compliant housing finance was launched in Britain. The London-based United Bank of Kuwait PLC announced housing loans would be offered to British Muslims without interest payments. This development took place at the same time as the European Council for Fatawa and Research (ECFR), as previously described, began its debate on the permissibility of interest. Housing loans were made available to non-British residents who sought to purchase property in Britain; Keith Leach, sales manager of the product, called *Manzil*, and retailed in accord with *Shariah*, said the loans would not be considered particularly attractive to non-Muslims.⁴⁴

As the 1990s came to a close, radical *Shariah* rhetoric appeared in the agitation of a suddenly-notorious British Muslim extremist figure, Egyptian-born Abu Hamza (Al-Masri), who justified the murder of Britons kidnapped in Yemen and stated that he organised military training for his followers inside Britain. He titled his organization Supporters of Shariah (SOS). His appearance was notable because of his loss of both hands and an eye, allegedly in Afghanistan. He had obtained British citizenship and an engineering degree from Brighton University, and reportedly had worked as an engineer at the Sandhurst military installation.



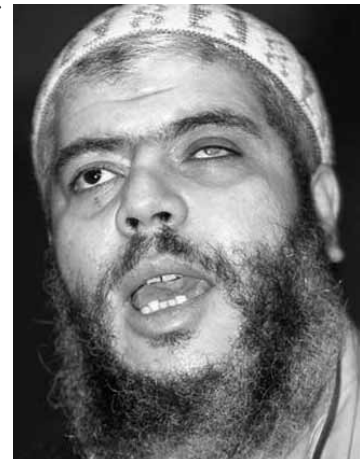
President Zia-ul-Haq

Abu Hamza was prominent in the North London Central Mosque in Finsbury Park, and claimed that SOS maintained security training utilizing former British Army officers. He defined terrorism as follows: “If it means killing a few people to stop the killing of more people it is justified.” He declared that SOS cooperated with the kidnapers of 16 Westerners in Yemen, in which three Britons and an Australian died in a failed rescue. In addition, five of his British followers were arrested in Yemen and accused as participants in a terror conspiracy.⁴⁵ Abu Hamza was arrested soon after his major burst of media coverage.⁴⁶

The year 1999 saw the beginning of debate over the practice of forced marriage among British Muslims and its intersection with *Shariah*. Radical Muslim author Faisal Bodi argued in *The Guardian*, using an ambiguous tone that became common in the years that followed, “Muslims need wider help to end forced marriages... the problem of forced marriage persists. Among some sections of our community it is rife... All Muslims [sic] defer to the belief that in the shariah, the body of laws defining our faith, we have a supreme and preemptory point of reference.”⁴⁷ In our observation, such opinions are not and never were shared by “all Muslims”.

With the events of September 11, 2001, and ensuing Western military intervention in Afghanistan and Iraq, radical Muslim agitation expanded in Britain, and *Shariah* rhetoric predictably increased. Abu Hamza’s group, Supporters of Shariah, was prominent in all such activity. A “London School of Shariah” was implicated in recruitment of radical Muslims to fight in Afghanistan.⁴⁸ Radical ideological tendencies such as the conspiratorial revolutionary group *Hizb-ut-Tahrir* (Party of Liberation – HT), the extremist entity *Al-Muhajiroun* (The Migrants), and the missionary group *Tabligh-i-Jamaat* (Appeal of the Community – TJ) have also advocated Islamic separatism and establishment of *Shariah* in Britain. Founded in the 1920s in India, TJ is active throughout Britain, and has a large centre

in the town of Dewsbury, where many Muslims originate from Gujarat in India. Among these groups only TJ has gained a significant place in British Muslim life, and because of their marginal status we consider discussion of HT and *Al-Muhajiroun* ancillary to the topic of this survey.



Abu Hamza

New Demands

In the aftermath of the Afghanistan and Iraq interventions and the July 2005 (7/7) London metro bombings, the British authorities attempted to assess means to reduce Muslim extremism in the country. Simultaneously, however, Muslim fundamentalist elements heightened pressure for official recognition of Islamic practices and institutions in British society. In August 2006, alleged moderate Muslim leaders suddenly called for the Islamic holidays of *Eid al-Fitr*, at the end of the fasting month of Ramadan, and *Eid al-Adha*, which closes the month of *hajj* or pilgrimage to Mecca, to become national holidays (“bank holidays”) for all Britons.⁴⁹

Britain was soon shocked to learn that, according to leading and authoritative media, 40 percent of Muslims desired the introduction of *Shariah* in the country. This statistical result was produced by a poll conducted in 2006 by *The Sunday Telegraph*.⁵⁰ In reality, as *The Sunday Telegraph*’s reporting on the poll itself showed, this assessment of the state of British Islam was far from definitive. The poll found that 41 percent of British Muslims *opposed* introduction of *Shariah*. This left ambiguous the nature of anti-*Shariah* sentiment, which we consider to be determined and committed, as well as the views of an undecided 19 percent that could swing either way. More important, *The Sunday Telegraph*’s description of *Shariah* was vague and

appeared deliberately alarmist. No distinction was made in the reportage between *Shariah* as questionable but nonviolent concepts in finance and medicine and what the newspaper described as follows: “Islamic law is used in large parts of the Middle East, including Iran and Saudi Arabia, and is enforced by religious police. Special courts can hand down harsh punishments which can include stoning and amputation.” The British non-Muslim public was left with the strong impression that nearly half of British Muslims sought the introduction of *hudud* punishments in the country, with the threat that such would be applied to non-Muslims. The scenario was nightmarish and, as a media projection, profoundly irresponsible. Unfortunately, this impression was reinforced by veridical reporting on informal *Shariah* practice in Britain.

Certain British “experts” were regrettably hasty in defending *Shariah*. According to *The Daily Telegraph*, “Some lawyers welcomed the advance of what has become known as ‘legal pluralism.’ Prakash Shah, a senior lecturer in law at Queen Mary College, University of London, said such tribunals ‘could be more effective than the formal legal system...’”⁵¹

Soon a reaction among Muslims against *Shariah* promotion, even that comprising ameliorative arguments, was articulated, if in an ambivalent and inconsistent manner. In August 2006, partly in reaction to the brief Israel-Lebanon war, the main Islamic organizations in Britain, reportedly following an initiative of the fundamentalist Muslim Council of Britain (MCB), addressed a letter to the government. Published as a full-page advertisement in *The Times*, the statement called for a change in British policy toward the U.S.-led intervention in Iraq and, by inference, British action for an immediate peace in Lebanon, to combat radical Islam as a phenomenon within British society.⁵² Titled “Protect Civilians Wherever They Are,” it was signed by such leading “mainstream” Islamist ideological and fundamentalist entities, in addition to MCB, as the British Muslim Forum (BMF), the Federation of Students Islamic Societies (FOSIS), and the Muslim Association of Britain (MAB). Following its appearance, Muslim representatives met with John Prescott and Ruth Kelly, prominent members of Tony Blair’s cabinet.

A signatory of the 2006 advertisement, Shahid Malik, Labour member of the British



John Prescott MP, former Deputy Prime Minister



Ruth Kelly MP



Shahid Malik, MP for Dewsbury

parliament for Dewsbury, a centre of radical ideological activity (in 2008, Malik became cabinet Minister for International Development under Prime Minister Gordon Brown), had declared bluntly that Muslims desiring to live under *Shariah* should return from Britain to countries like Saudi Arabia.⁵³ This statement is also worth reprinting *in extenso*. Malik wrote, “[A]fter a 90-minute meeting with John Prescott, the deputy prime minister, to discuss the challenges of extremism and foreign policy, I emerged and was immediately asked by the media whether I agreed that what British Muslims needed were Islamic holidays and shariah (Islamic law). I thought I had walked into some parallel universe. Sadly this was not a joke. These issues had apparently formed part of the discussion the day before between Prescott, Ruth Kelly, the communities minister, and a selection of ‘Muslim leaders.’ I realised then that it wasn’t me and the media who were living in a parallel universe – although certain ‘Muslim leaders’ might well be.

“Maybe some of these ‘leaders’ believed that cabinet ministers were being alarmist, that the terror threat posed by British extremists was exaggerated. Maybe they thought that the entire plot and threat were the ‘mother of all smokescreens,’ a bid to divert our attention from the killing fields of Lebanon. Or maybe it was another symptom of that epidemic that is afflicting far too many Muslims: denial. Out of touch with reality, frightened to propose any real solutions for fear of ‘selling out,’ but always keen to exact a concession — a sad but too often true caricature of some so-called Muslim leaders.

“Other members of the Muslim community I am sure would have cringed as I did when listening to Dr. Syed Aziz Pasha, secretary-general of the Union of Muslim Organizations of the UK and Ireland, who explained his demand

for shariah and more holidays: ‘If you give us religious rights we will be in a better position to convince young people that they are being treated equally along with other citizens’...

“Who speaks for Muslims?... As I have repeatedly said, in this world of indiscriminate terrorist bombings, where Muslims are just as likely to be the victims of terrorism as other British and U.S. citizens, we Muslims have an equal stake in fighting extremism. Hundreds of Muslims died on 9/11 and 7/7. But more importantly, given that these acts are carried out in the name of our religion — Islam — we have a greater responsibility not merely to condemn but to confront the extremists. In addition to being the targets of terrorism, Muslims will inevitably be the targets of any backlash.

“...Some of the ‘Muslim leaders’... demanded shariah for British Muslims rather than the existing legal system. The call for special public holidays for Muslims was unnecessary, impracticable and divisive. Most employers already allow their staff to take such days out of their annual leave. And what about special holidays for Sikhs, Hindus, Jews?...

“When it comes to shariah, Muhammad ibn Adam, the respected Islamic scholar, says: ‘It is necessary by shariah to abide by the laws of the country one lives in, regardless of the nature of the law, as long as the law doesn’t demand something that is against Islam’... [T]he prophet Muhammad (peace be upon him) said: ‘It is necessary upon a Muslim to listen to and obey the ruler, as long as one is not ordered to carry out a sin.’ (*Sahih al-Bukhari*, no 2796 & *Sunan Tirmidhi*).

“In Britain there are no laws that force Muslims to do something against shariah and Muslims enjoy the freedom to worship and follow their religion, as do all other faiths. Compare Muslim countries such as Saudi Arabia, a shariah regime where women are forbidden to drive; or Turkey, a secular country where women are forbidden to wear the *hijab*; or Tunisia, where civil servants are forbidden to wear a beard...

“Since I made my remarks my office has

been overwhelmed with support. I also know that some Muslims feel uncomfortable, not necessarily because they disagree but because they feel targeted. But what I want to say to my fellow British Muslims is that in this country we enjoy freedoms, rights and privileges of which Muslims elsewhere can only dream. We should appreciate that fact and have the confidence to fulfil the obligations and responsibilities as part of our contract with our country and as dictated by shariah law.”

Although on foreign policy issues Malik wavered and accommodated the very radicals he criticised in 2006, MP Malik’s comments of that year summed up the traditional position of the first generations of Muslim immigrants to Britain. Indeed, he offered an excellent summary of the essential principles of moderate Islam in addressing these issues. As he pointed out, and as we have repeatedly stressed, authentic, established *Shariah* in both Sunni and Shia Islam calls on Muslims living in non-Muslim countries to accept the laws and customs of their new homes.

In 2007, Policy Exchange, a British think-tank critical on multicultural issues, published a survey of Muslim attitudes in the UK, *Living Apart Together*.⁵⁴ Policy Exchange determined:

“• 62% of 16-24 year olds feel they have as much in common with non-Muslims as Muslims, compared to 71% of 55+ year olds.

“• 60% of Muslims would prefer to send their children to a mixed state school, compared to 35% who would prefer to send their child to an Islamic school. There is a clear age difference. 37% of 16-24 year olds preferred to send their children to Islamic state schools, compared to 25% of 45-54 year olds and 19% of 55+ year olds.

“• 59% of Muslims would prefer to live under British law, compared to 28% who would prefer to live under *sharia* law. 37% of 16-24 year olds prefer *sharia* compared to 17% of 55+ year olds.

“• 36% of 16-24 year olds believe if a Muslim converts to another religion they should be punished by death, compared to 19% of 55+ year olds.

“• 7% ‘admire organisations like Al-Qaeda that are prepared to fight the West’. 13% of 16-24 year olds agreed with this statement compared to 3% of 55+ year olds.

“• 74% of 16-24 year olds would prefer Muslim women to choose to wear the veil, compared to only 28% of 55+ year olds.

“• 59% of Muslims feel they have as much, if not more, in common with non-Muslims in the UK as with Muslims abroad.”

We note the stunning finding that fewer British Muslims over 55 support *hijab* (covering of women’s hair) than those in their teens, a counterintuitive fact to most non-Muslims. Based on our field research, we believe the Policy Exchange figure of 59 percent of British Muslims favoring British law, in contrast with 28 percent for *Shariah*, is more accurate than *The Sunday Telegraph* poll result of 41 percent for British law, and 40 percent for *Shariah*. We estimate that at present some 65 percent of British Muslims are firmly and even combatively opposed to introduction of *Shariah*, with pro-*Shariah* and neutral opinion on the issue inchoate and often uninformed.

The CIP Survey of *Shariah* Agitation in Britain

Beginning in November 2007, the Centre for Islamic Pluralism commenced a field survey of *Shariah* agitation and attitudes toward it in British Muslim communities. CIP investigators Stephen Suleyman Schwartz and Irfan Al-Alawi investigated *Shariah* sentiment in the main British Muslim communities in March-April 2008. Interviews included extensive meetings and discussions in London, Birmingham, Manchester, Bolton, Bradford, Sheffield, and Leicester. Interviewees included imams, muftis (legal authorities), spiritual *shaykhs* (pirs), British

Muslim barristers and solicitors, social workers, and rank-and-file mosque attendees.

The communal environment was enhanced, since the survey took place during the period of celebration of the birthday of Prophet Muhammad, a custom known as *mawlid*, which is common in Pakistan, the place of origin of most immigrant British Muslims, as well as in Britain. In addition, *Shariah* issues had been dramatised by the comments of Anglican Archbishop Rowan Williams.

Islam in England was dominated for two generations by the Indian Barelvi sect, which appeals to the original cohort of immigrants and is oriented toward Sufi spiritualism, viewed as more quietist and mystical, as well as to British loyalty – notwithstanding that many Barelvis have never fully learned English or assimilated British customs.⁵⁵ Barelvis are also considered amenable to better relations with Christians. Barelvis include a Sufi order derived from the conservative Qadiri Sufi tradition, known as Razvi Sufism, and Barelvis in Pakistan have been active in taking back mosques they established, which had been subverted and brought under the control of Saudi-financed fundamentalist Wahhabis and of the Deobandi sect. Although the Deobandis, originating in India, were long viewed as peaceful and spiritual, they included students in *medresas* in Pakistan who assumed power in Afghanistan as the Taliban. Deobandism is also promoted by *Tabligh-i-Jamaat* (TJ). Younger British Asian Muslims, feeling more socially-dislocated because they have fully experienced Western as well as Muslim culture, may be drawn to Deobandism as a form of revivalism.

The story of the radicalisation of Pakistani Deobandism, and its transformation from a religious interpretation into an ideology, is a complex one, but one thing is certain: many Deobandis in Britain are no less rigid and extreme than their mentors in Pakistan and Afghanistan. Deobandis are known for their violent condemnation of Barelvi spiritual practices. Their fundamentalism intersects with

and reinforces the anti-Indian jihadism of Mirpuris from Kashmir.

Radicalisation in mosques is typically blamed not on preachers but on mosque management committees which allow radical preachers and TJ organisers access to religious facilities. Radical preaching is carried out mainly in English, while anti-radical activity, including preaching and publication, is largely effected by clerics in the immigrant languages, Urdu and Punjabi. This fact is counter-intuitive to the many non-Muslims who presume that foreign imams, speaking their original language, comprise the core of radicalism. But the young do not respond to preaching in the immigrant languages, and immigrant clergy do not learn English well enough for preaching in it. Paradoxically (or not), some leading radical preachers active in Britain are American-born converts. The language difference widens the gap between young, British-born Muslims, who show the growing influence of the Pakistani variant of Deobandism, and their parents and grandparents, who were mainly Barelvi immigrants. Young British Muslims often consider Barelvis to be old-fashioned, and Deobandism to be more political and therefore modern, although Deobandism is markedly backward-looking in its social attitudes, especially toward women and non-Muslims.

Visible tension exists between established, moderate clerics of the earlier immigrant cohorts and recent immigrants promoting Deobandism. The first mosque visit by Al-Alawi and Schwartz was made during the week of *mawlid* at the new Madina Mosque in the city of Bolton. The Madina Mosque was established in Bolton after the takeover by Deobandis of an older mosque.

When Al-Alawi and Schwartz visited the Madina Mosque for evening prayer and participation in the *mawlid*, attended by some 500 people, a shouting match erupted between a small group of fewer than half a dozen Deobandi interlopers and the imam of the mosque. One of the Deobandis declared that the new “*shaykh*” at



Bolton Mosque

the old mosque had “redeemed Muslims from crime” and shouted “I will kill anybody who insults my *shaykh*.” The Deobandi group were ejected from the Madina Mosque but remained outside the building loudly denouncing the congregation. Madina Mosque imam Muhammad Masud Qadri stated that the followers of the Deobandi *shaykh* claim the latter has the power of black magic, and refer to him as “*Jinn Baba*,” i.e. the master of supernatural beings. Among those who remained in the Madina Mosque, an adolescent asked the question “what is *Shariah*?” This began a lively discussion of radical demands versus traditional attitudes.

In later interviews, Bolton traditional Islamic jurist Maulana Mufti Ayub Ashrafi expressed opposition to any introduction of *Shariah*, on the grounds that Muslims will ask why Islamic law must be introduced in non-Muslim countries when it does not function in the majority of Muslim countries. In addition, historically, and as should be recalled from prior comments herein, *Shariah* as a broad system never existed outside the lands of Islam, and Muslim legal scholars traditionally denied its applicability in non-Muslim societies.

Britain has also recently seen the penetration of its Muslims by Wahhabism. Britain is further home to followers of the Muslim Brotherhood (MB) and the Pakistani radicals who adhere to the fundamentalist and exclusionary teachings of Abu’l Ala Mawdudi (1903-1979). The main British Muslim leadership organization, the Muslim Council of Britain (MCB), with

Muhammad Abdul Bari as its General Secretary, is widely considered an MB front, but includes only about a third of Islamic congregations, or 400 mosques. The MCB has failed to attract followers from Barelvi mosques, and the 2007 Policy Exchange report, *Living Apart Together*, found that only six percent of the British Muslim public considered themselves represented by MCB.⁵⁶ Professionals have been prominent in the Deobandi and Wahhabi milieux, mainly doctors, engineers, and lawyers. One liberal Muslim argument suggests that university curricula in these fields, without emphasis on the arts and humanities, lead to a simplistic view of religion. At the same time, it is noticeable that Muslim fundamentalists and jihadists consider themselves reformers, and have mounted a sustained attack on the inclusion of miracles, healings, relics, and shrines in the religion of Islam, much as such phenomena have come under criticism in the Judeo-Christian world. But reform may take one of two forms: modernizing, or purificationist.



Muhammad Abdul Bari, General Secretary of the MCB

In Britain, Barelvi Islam, to emphasise, is viewed as rural and popular among the uneducated, while Deobandi and Wahhabi Islam have an “advanced” reputation. It is unsurprising, then, that the Deobandi sect flourishes in urban communities in Britain, among the educated and affluent, where activity by its missionary offshoot, *Tabligh-i-Jamaat* (TJ) is visible.

The CIP survey was completed under the specified four headings:

- (1) Family/schooling
- (2) Institutionalization of *Shariah* by non-Muslim governments (Parallel *Shariah*)
- (3) Criminal aspects
- (4) Approach to Women

(1) Family/schooling

Radical *Shariah* advocates call for Muslim children to be educated only in Islamic schools. We analysed the effect of *Shariah* agitation on family behavior and school relations as described by British Muslim clerics, community leaders, and other moderate Muslim representatives.

We asked: Do families more frequently consult religious leaders or submit queries to *Shariah* websites before making decisions? Our inquiries disclosed that traditional, anti-radical British Muslims, much more than those elsewhere in Western Europe, habitually consult imams and Sufi *pirs* [spiritual leaders] as they did in the past, for advice on personal problems involving employment, intergenerational disagreements, and exceptional difficulties such as health crises. Frequency of consultation with religious leaders does not correlate to sympathy with radical or antiradical ideology but is a cultural characteristic visible throughout the varieties of Islam imported into Britain from the Indian subcontinent. As previously noted, a Deobandi extremist in Bolton expressed complete dedication to a radical *shaykh* known as “*Jinn Baba*.” Radicals and *Shariah* extremists in particular are, however, likelier to surf *Shariah* websites because the latter are simpler in their answers, in line with the contrived or



Pupils at the King Fahd Academy, Acton, West London

extemporaneous nature of radical Islamist discourse, which as we have stated, repudiates precedent and promotes improvisation.

In the area of health care, however, imams and Sufi *pirs* are more typically solicited for faith healing services by the older generation than by younger Muslims. Another of the paradoxical aspects of British Asian Islam, with its considerable Pakistani influence, is that the original generations of immigrants are traditional in their submission to British laws, but also in their devotion to folk medicine, faith healing, and related customs. As we noted in the 2008 Centre for Islamic Pluralism study, *Scientific Training and Radical Islam*,⁵⁷ small booklets correlating the 99 Islamic names of God with different specific complaints and ailments are sold wherever Muslims are found, all over the world, and are easily encountered among British Asian Muslims. In one such, *99 Names of Allah*, printed in India, we read the following: “*Al-Hayy*, The Everlasting: Anyone desiring sound health should recite this name 3,000 times daily. If a sick person writes this name in a bowl with musk and rose water and then washes such inscription with water and drinks the water, he will soon be cured from his illness, *Insha’allah* [God willing]. Alternatively, if such water is given to a person who is ill, he will be cured, *Insha’allah*.”

The 13th century Syrian fundamentalist Muslim theologian, Ibn Qayyim Al-Jawziyya, composed a work of faith healing that remains extremely popular among Muslims today, including in the UK: *Al-Tibb Al-Nabawi* (*The*

Medicine of the Prophet Muhammad). In this volume, Al-Jawziyya offers several supplications (*duas*, or spiritual recitations and requests) along with suggestions for treating sicknesses.

In 1995, the question of *Shariah* in organ donation attracted the attention of the British public. British Muslims were granted, in the language of the government, “official approval for organ donation when a Fatwa, or religious verdict, was issued by the Muslim Law (*Shariah*) Council UK... Tom Sackville, Parliamentary Secretary for Health... was presented with a copy of the document by Dr. M. A. Zaki Badawi, Chairman of the Council.”⁵⁸ British Muslims remained reluctant to participate in organ donation, according to statistics reported from the West Midlands in 1997.⁵⁹ As we further noted in our report, *Scientific Training and Radical Islam*,⁶⁰ early in 2008 the UK House of Lords addressed an “inquiry into the issues raised by the European Commission,” on organ donation and transplantation, and policy actions to be taken at the Europe-wide level, to religious organisations, including Muslim groups. A *Shariah* body, the Muslim Burial Council of Leicestershire (MBCOL) headed by Suleman Nagdi, replied to the Lords’ queries as follows:

“Query 1: Please would you describe any



Chair of the Council of Mosques & Imams, Sheikh Dr Zaki Badawi (third from left) with the Cardinal Archbishop of Westminster, Cardinal Cormac Murphy-O'Connor, the Free Churches Moderator, Dr David Coffey, the Chief Rabbi of the United Hebrew Congregations of the Commonwealth, Sir Jonathan Sacks, and the Archbishop of Canterbury, Dr Rowan Williams

particular aspects of organ donation and transplantation which are considered ethically problematic within the context of your organisation’s religious beliefs – as these are perceived: (a) within the UK or (b) in other EU Member States?”

MBCOL’s Nagdi offered the following comments: “The interference and or the violation of the human body, whether living or dead, are prohibited in Islam. This concept has been applied in many differing ways by the Muslim community with regard to matters that relate to organ donation and transplantation. The application of this concept has been more rooted in cultural attitudes than strict application of Islamic (*Shariah*) Law. As with some of the prohibitions there is a balance that needs to be struck. This balance is achieved by the prohibition being waived in some instances. These are in cases of necessity; to preserve the life of others and of one self. This is the Islamic legal maxim of *al-darurat tubih al-mahzurat* (necessities overrule prohibition). Many Scholars in Islam have examined this issue and the points that flow from opinions appear to be as follows: Medical professionals should be entrusted in defining ‘death’ by clinical criteria and this is a question of medical fact rather than one of religious analysis.

“We should accept brain stem death as the proper definition of the end of life. I would conclude that there are no real ethical barriers as such. The opinions all point to the fact that organ donation is permitted.” Nagdi stated that Muslim objections to organ donation were cultural rather than religious, but expressed opposition to controversial UK proposals for a “presumed consent” to organ donation, in response to the Lords’ citation of Muslim acceptance of “presumed consent” in Singapore. Nagdi wrote, “We do not believe that a system of ‘presumed consent’ would be appropriate. The idea of people having to ‘opt out’ is in our view inappropriate when we look at the fact that ones [sic] organs are being used... We can envisage families raising legal, moral and ethical

challenges against the medical profession when they are opposed to one of their loved ones [sic] bodies being used in this way.” Nagdi elaborated, however, that refusal of “presumed consent” should be made through detailed documentation such as wills, with the participation of (non-*Shariah*) legal professionals, in a system that could easily become unwieldy and obstructive, especially considering that organ donations in countries like the U.S. frequently occur after a loss of consciousness caused by severe injury, as in traffic accidents.

Private *Shariah*-oriented elementary and secondary schools are not widely-present in Britain. There are 127 full-time, privately-financed Muslim schools in the UK, according to the Association of Muslim Schools in the UK (AMSUK), although only 68 belong to AMSUK: 22 in London, two in Southeast England, eight in the East Midlands, 12 in Lancashire, ten in Yorkshire, and 14 in the West Midlands.⁶¹ Some 15,000 Muslim youth and 11,000 Jewish children currently receive instruction in private religious schools in which tuition is paid for by parents.⁶²

Of England’s 21,000 state-subsidised schools, a third (about 7,000, with 1.7 million students) are religious, but they are overwhelmingly Anglican or Catholic. They include 37 Jewish institutions, seven Muslim, two Sikh, one Greek Orthodox and one Seventh Day Adventist. A Hindu school was announced for opening in 2008. Among 376,000 Muslim children between five and 15 years of age at the last census, no more than 1,770 attend seven state-funded UK Muslim schools. In the religious school population, 21 percent were estimated to come from ethnic minorities in 2008, with 17 percent of non-religious state schools representing such communities.⁶³

While British authorities announced plans to expand the number of officially-subsidised religious schools, in the interest of improving the quality of instruction, doubts have been expressed about the nature of curricula in Muslim schools, where students may be segregated from outside influences or taught negative attitudes

toward other communities. Still, UK official policy has anticipated the absorption of around 100 private Muslim schools into the state sector.

Further, in addition to the mentioned primary and secondary institutions, a 2009 report states that 24 Saudi-financed schools “about which little is known” and 26 fundamentalist seminaries usually referred to as a *Dar ul-Uloom* or “House of Religious Sciences” operate in the UK.⁶⁴ The UK Office for Standards in Education, Children’s Services and Skills (Ofsted) responded by announcing that it would monitor independent faith schools in Britain to assure promotion of tolerance toward other cultures.⁶⁵

We found, however, that demands for introduction of Islamic curricula in state schools receive little support from Muslim parents and students. Parents and students alike are concerned that the atmosphere in private Muslim schools, like that in non-religious state schools, has become badly compromised by violence and pop-culture morality. We heard complaints about gang activity and early pregnancy in Islamic schools, and were told that increasingly, Muslim parents seek to place their children in Catholic schools. We interviewed a Midlands British Muslim family of confirmed moderates, where the parents speak Punjabi between themselves but two primary-school age children, one male and one female, speak mainly English. We observed that while the parents discussed religious issues and the small daughter studied *Qur’an*, the boy commenced surfing gangster-rap sites on the Internet in our full sight, as if to indicate to us that his parents were oblivious to his interests, which they indeed seemed to be. While this single incident cannot be taken as definitive, it provided an example of the generational differences that are also manifested in private Muslim schools.

The potential for isolation and radicalization of Muslim students even in state schools was revealed early in 2007. One of the boldest radical *Shariah* initiatives in Britain emerged, in an attempt by the Muslim Council of Britain (MCB) to introduce “parallel *Shariah*” in

state schools through a plan titled, “Towards Greater Understanding – Meeting the Needs of Muslim Pupils in State Schools: Information and Guidance for Schools”.⁶⁶ The plan called for preventing Muslim students from being exposed to the principles of other religions, as well as introducing radical *Shariah* guidelines for the dress of both male and female students, a Muslim diet at meals, special washing facilities for prayer, “optional” gender-segregated prayer areas, reorganization of instruction periods to accommodate prayer times (especially Friday collective prayer), introduction of imams into state schools to conduct Friday prayer, special consideration for students during the fasting month of Ramadan, including exemption from examinations on grounds of physical weakness while fasting, compulsory inclusion of non-Muslim students in Ramadan and other Islamic holiday events, and exclusion of Muslim children from mixed-gender sports and especially from swimming instruction, unless swimming lessons are segregated and girls provided with full body cover while being taught to swim.

In line with the MCB’s Islamist ideology, the school guidelines also called for a bar on participation in music and dancing, as required by the most extreme Islamic interpretations. The MCB has also sought to introduce anti-evolution, anti-Jewish, and general anti-Western literature into British state schools.

It should be recognised, notwithstanding such blandishments, that Muslim parents in Western Europe continue to mainly seek education for their children in non-Muslim state schools, either because they lack the means to pay for private tuition, or because Muslim schools are scarce, as in Germany, Holland, France, and Spain. It is indicative of this situation that the debate over headscarf wear (*hijab*) in France was centred in state schools. In other words, Muslim parents in Western Europe have generally failed to heed radical demands that they place their children in religious schools. This situation, nonetheless, has a two-edged character, in that private Muslim education may be

replaced, as in the MCB scheme, by “*Shariah*” in state schools. What could be acceptable as a minimal “reasonable accommodation” of religious preference in state schools has already been partially transformed into a maximal demand by substitution of the concept of a Muslim “right” for that of “accommodation.”

Interviewees also admitted frankly that they preferred the British system of social benefits to the absence of welfare programs in Muslim countries like Pakistan, emphasizing the lack of consistent provisions for public assistance in most Muslim countries. In some Muslim countries, poor families may go to radical mosques and movements (such as Hamas or the Muslim Brotherhood), Sufi institutions (as in Turkey), or Islamic but not Islamist mass social movements (e.g. Muhammadiyah or Nadhatul Ulama in Indonesia) for assistance. But outside the West, such possibilities are limited and do not depend on government financing.

(2) Institutionalisation of *Shariah* by non-Muslim governments (“Parallel *Shariah*”)

In Britain, no single Muslim organisation or institution has standing to represent the community as a whole in dealings with the government, although MCB, notwithstanding its thin roster of participating mosques (400) has attempted to assume this role. The much smaller British Muslim Forum (BMF) and Muslim Association of Britain (MAB) have also contended for such recognition, as has an ephemeral Sufi Muslim Council (SMC). The Blair administration briefly extended financial assistance to MCB, BMF, and SMC. In addition, the British government has supported a Mosques and Imams National Advisory Board (MINAB), as an official institution established to improve standards among British imams.

With a British Muslim leadership officially unrecognised, and, according to some because of the lack of such a provision for orderly relations, “Shadow *Shariah*”, i.e. informal radical *Shariah*, already exists in Britain. Religious tribunals may handle family matters, mainly

marriage and divorce. But *Shariah* fanatics call for something more: they want official state enforcement of religious decrees. Obligatory *Shariah* for Muslims, enforced by the British authorities, is the ultimate issue in calls for adoption of a vaguely-defined *Shariah*. British social welfare practice already unofficially recognises polygamy and pays spousal benefits to second wives. Early in 2009, BBC reporter Zubeida Malik noted,⁶⁷ “There are no official figures on the number of people in polygamous marriages in Britain, but Zlakha Ahmed, a project manager of Apna Haq, a woman’s support service based in Rotherham, says that the number of polygamous marriages is growing. In her experience, it is younger British-born Muslim men who are the driving force for the increase in numbers. She says that women under pressure to enter into polygamous relationships often do not have anyone to turn to for help and that this can lead to mental health problems.”

Archbishop Williams and Lord Chief Justice, Baron Phillips, when they appealed in maladroitness fashion for recognition of *Shariah* in Britain, failed to see that demands for *Shariah* in the West have little to do with increased respect for Islam and everything to do with the continuing radicalisation of Muslims. Their light-minded remarks could aggravate, rather than diminishing, the growing tensions between Muslims and non-Muslims in Britain. *Shariah* advocates in the West hope to separate Muslims from their non-Muslim neighbors, the easier to recruit and indoctrinate believers for jihadism. But *Shariah* is not a sound-bite topic. Paradoxically, ignorance of *Shariah* among non-Muslims is matched by a similar void among the radical agitators, who chiefly seek publicity with their demands and threats. Unschooled in Islamic law, they equate *Shariah* with their own improvised notions of religious justice. In reality, *Shariah* is a complex system of jurisprudence, differently applied by the four different Sunni and two Shia schools of interpretation. While radical Islam, represented by Saudi Wahhabism, Pakistani jihadism and Deobandism, and the



Hijaz College Islamic University, Nuneaton, Warwickshire



Sheikh Faiz-ul-Aqtab Siddiqi, principal of Hijaz College

Egyptian Muslim Brotherhood, comprises an argument that traditional Muslims have fallen back into a state of *jahiliyyah* or pre-Islamic ignorance, the term *jahili* or “ignorant” may be applied with much greater accuracy to the radicals.

Late in 2008, Sheikh Faiz-ul-Aqtab Siddiqi, a barrister and principal of Hijaz College Islamic University, near Nuneaton, Warwickshire, announced that a system of *Shariah* tribunals he directs, the Muslim Arbitration Tribunal (MAT), would request that the British government enforce verdicts rendered by his authorities.⁶⁸ MAT has established public offices in Birmingham, Bradford, and Manchester, with two more to be set up in Glasgow and Edinburgh. Faiz-ul-Aqtab Siddiqi stated that he anticipated utilizing the UK Arbitration Act 1996, defining the MAT councils as arbitration tribunals, with rulings that could be enforced in law, if both parties in the dispute agree to grant the tribunal jurisdiction in their cases.

Siddiqi said: “We realised that under the Arbitration Act we can make rulings which can be enforced by county and high courts. The act

allows disputes to be resolved using alternatives like tribunals. This method is called alternative dispute resolution, which for Muslims is what the sharia courts are.” Siddiqi first appeared as a promoter of Muslim tribunals in UK media in 2006. These tribunals have reportedly dealt with more than 100 cases, comprising Muslim divorce and inheritance issues as well as complaints between neighbors. Allegedly, by late 2008, tribunals had settled six cases of domestic violence in marriages, in cooperation with police. Siddiqi said he anticipated his organization would gain jurisdiction over “smaller” criminal cases. “All we are doing is regulating community affairs in these cases,” he added. Siddiqi’s website⁶⁹ states that his tribunals’ purview includes family disputes, illegal forced marriages (banned by legislation in 2007), commercial and debt disputes, inheritance disputes, and mosque disputes. Inayat Bunglawala, assistant secretary-general of the Muslim Council of Britain, said: “The MCB supports these tribunals. If the Jewish courts are allowed to flourish, so must the sharia ones”. But outside Israel, the Jewish *beth din* courts in numerous Western countries, including the U.S. and Canada, do not request official government backing for their decisions. Surprisingly, the professional legal press in the U.S. treated this discussion with remarkable mildness; an article in *The ABA Journal* commented that *Shariah* “courts are controversial because they help to enforce cultural practices and traditions that may conflict, to some extent, with what is commonly done in the U.K.”⁷⁰

Authoritative moderate Muslim representatives in the UK have argued that any government recognition of the jurisdiction of *Shariah* courts over matters of common law in the West would mean either *Shariah* on the cheap dominated by ignorant radicals depriving British Muslims of their due rights – or an extremely elaborate system making room for the six main schools of Islamic jurisprudence, providing for an administrative apparatus, certification of judges, appeals, and so on, and creating a major burden on the public budget. *Shariah* as a basis

for strictly voluntary mediation of family or business disputes might appear well and good, except for the likely appointment of radicals as arbiters.

About two-thirds of our interviewees expressed satisfaction with British civil law and articulated strong opposition to the introduction of *Shariah*. They were resentful of what they consider the patronizing interference of Archbishop Rowan Williams and others like him, who they view as ignorant of Islam and whose comments left them confused as to their motives. In the city of Leicester, which is known as Britain’s main centre of Deobandism, CIP interviewed local figure Mohammed Sadiq, who stated that Muslims in Britain have more rights than non-Muslims in Saudi Arabia. Another, Mohammed Ramzan, asked, “Who is Rowan Williams? His comments were unimportant; he was not a political leader like Tony Blair or Gordon Brown”. He also criticised the British authorities for supporting “dialogue” with Islamic fundamentalists and stated that the problem facing British Muslims is terrorism, not lack of *Shariah*. Several interviewees were concerned that introduction of *Shariah* would put Muslims in a legal limbo or ghetto.

Many expressed fear that *Shariah* agitation would worsen the suspicions of non-Muslims toward the Muslim community. Any such trends would, it was repeated, aggravate the difficulties of British Muslims. In Sheffield, we interviewed Muhammad Islam Qadri, a prominent religious activist. He declared “the demand for *Shariah* is a political slogan from which the Sunnis will not benefit.” He noted that Deobandis had entered 463 legal complaints against his father, who was a well-known anti-fundamentalist jurist. Muhammad Islam Qadri is soliciting funds to open an anti-fundamentalist *medresa*.

One of the most remarkable features of the CIP survey in Britain was the encounter with British Muslim solicitors and barristers. CIP International Director Irfan Al-Alawi, a principal investigator in our survey, is himself a barrister

and lecturer in criminal law at the University of London. In Bolton, a Muslim solicitor, Haroon Rashid, pointed out that tens of thousands of British Muslims practice as solicitors and barristers. British Muslims depend on solicitors for such essential legal services as preparation of wills and property transactions, in addition to the involvement of barristers in criminal cases. Most British Muslim solicitors and barristers apparently do not desire the introduction of *Shariah* in the country, which would drastically change their professional status, and they represent a major potential bulwark against radical *Shariah* ideology in the country. This aspect of the *Shariah* debate has largely been ignored in British and global media.

British Muslim barristers and solicitors currently lack a support network or organization representing their interests. Some interviewed by CIP echoed the view that “parallel *Shariah*” would be a disaster for the Muslim community, in that, according to barrister Aseid Malik, it would produce legal chaos. Muslim legal professionals observe that radicals prefer to enter the scientific and medical professions because in gaining standing therein they can avoid the participation in the British state required of solicitors and barristers.

A contrasting view was presented by Pir Habib ur-Rahman Sahib, who considers himself a spiritual teacher and jurist. He controls a number of major mosques in Britain, and stated that he is neither for *Shariah* in Britain, which would be a position opposed by non-Muslims, nor against *Shariah*, which he argued would violate Islamic belief. “Pir Habib” is associated with the Muslim political figure Lord Nazir Ahmed, whom he described as a fundamentalist Wahhabi. But “Pir Habib” denied that Lord Nazir Ahmed engages in the common Wahhabi practice of “insulting the Prophet Muhammad” by prohibiting Muslims from celebrating *mawlid* and otherwise denying the status of the Prophet as a specially-enlightened personality different from normal people as well as from the monotheistic prophets preceding him. “Pir Habib” also defended the

radical British Muslim Forum (BMF), denying that it is, as is widely believed, aligned with the Pakistani jihadist milieu. “Pir Habib” is a trustee of BMF. A disciple of “Pir Habib,” Nazir Begg, operates a branch in Manchester of a well-known East London *Shariah* divorce facility, of the type discussed in section 4) of *Case Study: Britain*.

In the city of Bradford, CIP investigators conducted extensive interviews. Bradford, known as “Little Pakistan,” was the scene of rioting by young Muslims in July 2001. Sayyid Irfan Shah, a jurist known as “The Lion of Bradford,” who maintains a girls’ school and holds large annual preaching assemblies, declared that Muslim opponents of the introduction of *Shariah* are much more sophisticated in their understanding of the distinctions between private and public law than many non-Muslim critics of Islam in Britain. Sayyid Irfan Shah also stated forthrightly that Muslims have more rights to practice their religion in the West than non-Muslims have in Saudi Arabia. He denied that conflicts in Iraq and Israel represent an Anglo-American “war on Islam,” asking pointedly why, if such an intent exists, the British and U.S. authorities in their own countries do not attack Muslims. Finally, he declared that traditional Sunnis, who encounter religious enemies in Saudi Arabia and Iran, and the Western nations, which must confront Saudi and Iranian political radicalism, should find a way to form an alliance. (Irfan Shah is, at the same time, associated with the Hakchaaryar (HCY) movement, which is violently anti-Shia, as well as fomenting hatred of the Ahmadiyya, a heterodox Islamic movement subjected to legal sanctions, especially in Pakistan.)

(3) Criminal aspects

A series of video documentaries by the UK television Channel 4 show *Dispatches* has shown that radical indoctrination in contempt for British law is prevalent in mosque education (*Undercover Mosque – The Return*),⁷¹ and that radical recruitment is widespread in British correctional institutions (*From Jail to Jihad*).⁷²

Dispatches

Undercover Mosque

In the first case, involving mosque instruction, female teacher Um Saleem at the Regents Park Mosque in London was recorded calling on Muslims to “ ‘Kill him, kill, kill, kill’ homosexuals and those who abandon the faith of Islam.”⁷³ The same Channel 4 video (*Undercover Mosque – The Return*) showed Muslim students being taught that lawbreaking is permissible when committed against non-Muslims, a view that conforms to Wahhabi teaching heard among young Muslims in the U.S.

From Jail to Jihad reported on street gangs and inmates as part of an underworld permeated with a radical and dangerous interpretation of Islam. British Muslim community life in socially-insulated enclaves, like that of many African Americans, aggravates discontent among young Muslims. According to *From Jail to Jihad*, Muslims comprised approximately 11 percent of the UK prison population, while they made up 2.5 percent of the total British population. This datum alone illustrated the alienation of British Asian Muslims from the broader society. In the UK as much as in the U.S., ex-inmates engaging in Islamist *da'wa* after leaving prison are an important element of the radical movement. Inside HM Prison Brixton in London, officials have expressed their concern about Islamic extremism. But as in the U.S.,⁷⁴ British correctional staff are untrained in distinguishing between radical and moderate Islam. British officials have not wished to appear oppressive in dealing with Islamic extremism; they have feared any aggressive action might cause a backlash creating more radicalization.

Also as in the U.S., the UK's black non-Muslim population is a major target for radical Muslim recruitment. Many who are approached are former members of street gangs. Inside UK prisons young inmates are taught that Islam justifies their criminal activities if they are directed against non-Muslims, including lawbreaking ranging from robbery to killing. Gang members, having become Muslims, may

target drug dealers and steal from them to support the underground Islamist movement.

According to UK Channel 4, terrorist training camps are a part of an indoctrination program, where jihadist recruits are taught to use explosives and celphones as detonators. They are also taught to strip, load, and reassemble firearms.

BBC News reported in October 2008⁷⁵ an official assessment warning of an environment of fear among staff dealing with radical Muslim inmates at Whitemoor, a high-security prison in Cambridgeshire. Britain's Chief Inspector of Prisons, Anne Owers, described rising “disaffection and distance” and said the problem “urgently” required official action. Officers expressed concern that prisoners increasingly were converting to Islam according to radical interpretations. Prison officers warned that Muslim prison gangs sought to compel other inmates to support radical Islam, and that Muslim convicts in HMP Whitemoor were promoting a “strict and extreme” interpretation of Islamic practice. The crisis in Whitemoor attracted further attention in November 2008 when the *Sunday Express* reported that Muslim radicals had launched a “reign of terror” against other inmates in the facility. The newspaper counted no more than 100 Muslims housed in Whitemoor, but said that a nucleus of Al-Qaida sympathisers had compelled prisoners to become Muslims (a violation of *Qur'an*) and committed acts of violence against those who defied them.⁷⁶ This pattern in UK correctional institutions had become almost identical to that observed by CIP in U.S. prisons.

Ms. Owers said: “There was a perception among officers that some Muslim prisoners operated as a gang and put pressures on non-Muslim prisoners to convert, and on other Muslim prisoners to conform to a strict and extreme interpretation of Islamic practice.” A BBC correspondent, Danny Shaw, commented that the Whitemoor report confirmed previous investigations findings at HM Prison Belmarsh in London. Dr. Peter Neumann of King's College

London recommended European governments improve monitoring of prisons to prevent their emergence as “major hubs” for terror recruitment, and suggested establishment of special prisons for jihadists.

How do these phenomena intersect with *Shariah* promotion? BBC Radio 4 reported in 2006 on a case in the UK Somali community, which, throughout its global diaspora, is notably susceptible to fundamentalist and radical Islamic interpretations and ideology – a predictable outcome considering the proximity of the Arabian peninsula, across the Gulf of Aden, extensive Saudi influence, and the absence of a settled government in Somalia. According to the BBC, an assault committed with a knife was resolved by an unofficial Somali *Shariah* tribunal in south-east London. When a group of Somali youths was arrested on suspicion of stabbing another teenage member of their community, the family of the victim told police it would be settled outside the ordinary British courts system. The suspects were released on bail. A hearing was called by community elders and the accused were ordered to compensate the victim by a fine, which was paid by the families of the suspects.

A British Somali community representative, however, said, “Us Somalis, wherever we are in the world, we have our own law,” he said. “It’s not *shariah*, it’s not religious – it’s just a cultural thing”.⁷⁷

A more radical approach to *Shariah* in its relationship to lawbreaking was presented in another Channel 4 program, *Divorce Shariah Style*.⁷⁸ The broadcast described the *Shariah* Council at Regents Park Mosque in London, the same facility where extremist preaching had been recorded, as the oldest in Britain, having been established for a quarter century, with members ruling on every aspect of Islamic life. The Senior Judge and Secretary of the Council, Sheikh Hassan, said: “We know that if *Shariah* laws are implemented then you can change this country into a haven of peace. Because once a thief’s hand is cut off, nobody is going to steal. If only once an adulterer is stoned, nobody is going to

commit this crime at all. There would be no rapist[s] at all. This is why we say that, yes, we want to offer it to the British society. ... And if they don’t accept it, they would need more and more prisons.”

British non-Muslim public opinion has expressed further dismay over the apparent transformation of ethnic enclaves into alleged “no-go” areas in towns with large Muslim populations, which is perceived as an illegal imposition of separation. Ironically, the main critic of this development has been Dr. Michael Nazir-Ali, who in 1989, now two decades in the past, warned against viewing Muslims as a monoculture. At the beginning of 2008, Bishop Nazir-Ali wrote,⁷⁹ “there has been a worldwide resurgence of the ideology of Islamic extremism. One of the results of this has been to further alienate the young from the nation in which they were growing up and also to turn already separate communities into ‘no-go’ areas where adherence to this ideology has become a mark of acceptability.

“Those of a different faith or race may find it difficult to live or work there because of hostility to them and even the risk of violence. In many ways, this is but the other side of the coin to far-Right intimidation. Attempts have been made to impose an ‘Islamic’ character on certain areas, for example, by insisting on artificial amplification for the Adhan, the call to prayer.

“Such amplification was, of course, unknown throughout most of history and its use raises all sorts of questions about noise levels and whether non-Muslims wish to be told the creed of a particular faith five times a day on the loudspeaker.

“This is happening here even though some Muslim-majority communities are trying to reduce noise levels from multiple mosques announcing this call, one after the other, over quite a small geographical area.

“There is pressure already to relate aspects of the sharia to civil law in Britain. To some extent this is already true of arrangements for sharia-compliant banking but have the far-

reaching implications of this been fully considered?"

(4) Approach to Women

Family law is the most controversial aspect of *Shariah*, because radical Muslim concepts of modesty, and prevalent regulation of marriage and divorce, violate Western canons on women's rights. Muslim clerics in Western Europe may acquiesce in, and offer mendacious legal interpretations to support, such offences as forced marriage, wife-beating, forced divorce, female genital mutilation (FGM), polygamy, and the Saudi practice of "tourist marriage". Some of this behaviour is derived from local cultures, but it has been assimilated by Islamist ideology. *Shariah* agitators demand that marriage and related issues be completely subject to religious jurisdiction.

CIP found that the main area of vulnerability to *Shariah* agitation among British Muslims is that of divorce. *Shariah* authorities working in this milieu are widely considered to be radicals, with limited religious training. British men are even perceived, in a derisory manner, as vulnerable to appeals to become Muslims because *Shariah* would provide them means of gaining easier divorces.

The manner in which "shadow *Shariah*" councils, tribunals, or courts grant religious divorces to women was described incompletely in British media in 2006. There is a lack of clear definition between these councils and courts of arbitration. But a very large number of British Asian Muslim women have been wed exclusively by *nikah* or marriage contract in Pakistan, and because their marriages are not recorded in registered mosques in Britain, they cannot obtain civil divorces in the UK, and therefore turn to the *Shariah* tribunals. *Nikah* is not a religious institution; a specific Islamic marriage ritual or covenant is never described in *Qur'an* or other sources in the *Sunnah*. Rather, *nikah* is an agreement between parties whose assets are inventoried in the *nikahnama* or contractual document, and the relationship can, in traditional

Shariah, be nullified by the action of either party. While a marriage ceremony may be held, and it is considered sanctified by the presence of an imam and recitation of blessings, the ceremony itself is not a sacrament.

The interjection of alleged religious authority into the dissolution of a *nikah* is a gratuitous development introduced by Islamist ideologues. Proponents of dissolving a *nikah* through *Shariah* tribunals do not address religious aspects of this practice. As reported in *The Daily Telegraph*, the aforementioned Faiz-ul Aqtab Siddiqi said this type of court had advantages for Muslims. " 'It operates on a low budget, it operates on very small timescales and the process and the laws of evidence are far more lenient and it's less awesome an environment than the English courts,' he said." ⁸⁰

These problems of Islamic family relations have spawned a "Muslim marriage mafia" in Britain. British Muslim women who cannot obtain divorces in regular courts are drawn to *Shariah* councils operating in East London under the domination of Deobandi fundamentalists. The clerics running the East London divorce racket extort thousands of pounds sterling from poor Muslim women to grant them "Islamic" divorces. The decisions of these judges are typically guided only by personal whim, so long as money is handed over.

In 2007, the extent of involvement by informal, "shadow *Shariah*" tribunals in marriage and divorce was more fully exposed in British print media. A major *Guardian* reportage ⁸¹ told of the situation as follows at the Islamic *Shariah* Council in Leyton: "In the back room of a converted corner shop in east London, Sheikh Maulana Abu Sayeed is trying to save another marriage... one of Sayeed's colleagues at the Islamic *Shariah* Council in Leyton explains with a shrug, 'He has come to us to ask for help, but if the woman is adamant and she doesn't want to reunite, what can we do?' The image of a Muslim man pleading with his imam for a second chance with his wife, only to be told that it is his wife's decision, is not what most people would expect

from a shariah court. But his case is typical of hundreds each year dealt with by a group of scholars who provide judgments on shariah law for Muslims across the country... The Muslims who consult the Islamic Shariah Council are not asking for permission to stone adulterous wives, or chop off the hands of thieves, but simply for day-to-day guidance on living in accordance with their faith... The council, which has no legal authority, issues fatwas, or religious judgments [sic – *fatwas* are judgments only among Shias, and are merely opinions among Sunnis – CIP], from two rooms that resemble a hard-up solicitors' practice, tucked away on a quiet terraced street of small family homes with roses in the front gardens. It considers everything... inheritance settlements and whether property deals comply with Islamic laws against accruing interest... But the overwhelming majority of cases are to do with divorce – 95% of the roughly 7,000 cases the council has dealt with since opening its doors in 1982 – and, specifically, with releasing women from bad or forced Islamic marriages... some Muslims think they are protected by [non-Islamic] family law when they are not, and others think they are properly divorced when, in fact, they are still married.

“In one case, Luton police contacted [the counselling group Women Living Under Muslim Laws] after pursuing a man for bigamy who had married in Luton, then flown to Pakistan and married again. After looking into the case, they found that the first marriage was invalid as it had been conducted by an imam in an unregistered mosque. His first wife was left with no legal protection by the family courts, and the husband was free to bring his second wife back to Britain as his legal spouse. ...The Islamic Shariah Council, along with other shariah councils, argues that much of this confusion could be swept away if shariah law on marriages and divorces were recognised under civil law. But according to Lord Justice Thorpe, deputy chair of the Family Justice Council, there is already legislation available to them. ‘It seems to me they haven’t really got a problem at the marriage end,’

he says. ‘All you have to do is register your place of worship and, once registered, then marriages solemnised will be good in civil law.’”

Tasleem Ahmed, a Muslim woman employed at the Bradford Advice Centre, administers community programs to assist Muslim women with economic and social problems. Ms. Ahmed affirmed that because Muslim women do not know their civil and traditional Islamic rights, domestic conflict and especially divorce becomes an incentive to turn to *Shariah*. She elaborated by saying that such women seldom attend mosque services or apply at mosques for help with their problems, and that, failing to gain support in their families, homes, and communities, they may go to the informal *Shariah* courts for assistance in marriage and divorce cases, even though, as noted, the latter tribunals charge large sums for decisions that are almost always improvised and typically do not adhere to traditional Islamic law. According to British Muslim solicitor Adeal Zahid, none of the informal, “shadow *Shariah*” courts operating in the area of divorce conform to mainstream Sunnism (*Ahl as-Sunnah wa’al Jama’at* or People of the *Sunnah* United in Consensus).

Ms. Ahmed also stated that Muslim community organizations exploit the willingness of the UK and European Union authorities to finance women’s support programs, from which funds may be diverted to other purposes. This has allegedly been especially common in Bradford because of the political reaction to the 2001 riots there. Bradford has a Council of Mosques that is considered corrupt, and is believed to engage in such practices as multiple billing to finance social service programs. Financing from the EU is not subject to accounting.

Defenders of traditional Islam identify elements protecting women in the original Islamic revelation. For example, *Qur’an* expressly forbids female infanticide, which was a common practice in the pre-Islamic Arabian peninsula. Islam introduced women’s right to divorce and an equal share of property, or return of dowries. As is frequently recalled, the wife of

the Prophet Muhammad, a rich merchant woman named Khadijah, chose him as a spouse, rather than vice versa. Stoning as a punishment does not appear anywhere in *Qur'an*, but is ascribed to *hadith*, the debated oral commentaries of Muhammad, and is so justified in some *Shariah* authorities.

The Centre for Islamic Pluralism (CIP) branch in the UK announced in September 2008 that it would publicly “name and shame” imams who provided an “Islamic” cover for domestic abuse by their silence in cases of women being burned, beaten, and raped.⁸² CIP International Director Al-Alawi said the organization would furnish the British government’s Home Office with a list of clerics who refused to help abused women and failed to preach in condemnation of domestic violence. Al-Alawi ascribed the complicity by the imams in crimes against women to fear of losing their paid positions in mosques if they brought the topic before the community and public.

Al-Alawi declared that an inquiry by CIP into domestic abuse disclosed incidents of sexual coercion, as well as attacks with burning cigarettes and belts by husbands who believe they have religious authority to brutalise women. Data would be drawn from interviews with dozens of female Muslim victims as well as social workers in Muslim enclaves across northern England – including in Bradford, Manchester, Leeds and Birmingham. Al-Alawi noted documented complaints about imams who refused to act in such cases, and said many of the clerics were Wahhabis or members of *Tabligh-i-Jamaat* (TJ.) He said the Home Office had promised an investigation, and he called for the imams to be deprived of government grant money.

Al-Alawi provided the following as a specimen case⁸³:

“It wasn’t love that brought Aliyah and Hassan together, but a couple of childhood photos he’d seen of her. For Hassan, Aliyah – then a 20-year-old from Manchester – was a ticket out of Pakistan to join his brothers in England

in the hope of kick-starting a lucrative career in medicine.

“As for what Aliyah thought of Hassan? Well, no one cared. Not her mother, who threatened to kill herself if Aliyah didn’t go through with the marriage. Not her father, who had routinely molested Aliyah in her formative years, and not her siblings, who desperately wanted to uphold their parents’ honour and obey their demands.

“For three years after her wedding in Pakistan in 1998 Aliyah – a practising Muslim raised in northern England, who wears the hijab – was raped and emotionally abused by her husband. ‘He wanted to do things in the bedroom that I didn’t want to do,’ she told The Times. ‘And in the end he forcefully got what he wanted.’

“Aliyah, who worked as a factory-hand to support her unemployed husband, went to her local cleric to raise her concerns of being subjected to sexual abuse after her mother refused to listen to her complaints.

“ ‘I told my imam that I was suffering and that my confidence was broken,’ she said. ‘The imam told me to be patient. And I couldn’t say no to him because I was raised to fear men and put up with their decisions.’

“Aliyah didn’t go back to the imam because he was a close friend of her family and she was afraid that he would relay her complaints to her parents. She couldn’t seek the advice of another imam because clerics don’t usually deal with females that aren’t their students or known to them through family links.

“ ‘I totally lost faith in spiritual leaders after that,’ Aliyah said. ‘I lost faith in imams because they refuse to discuss issues such as rape and abuse

and refuse to speak up against it. It's seen as an embarrassing issue for them and they won't get involved because they think their reputation will be ruined and so would the reputation of the community.' Aliyah also accused her mother of ignoring her complaints about her sexually abusive father.

"Aliyah, now 30, divorced Hassan in 2001 after she was overcome by severe depression that on more than one occasion pushed her to consider taking her own life. She sought help from a therapist, but the advice she was given convinced her that she had to resolve her problems on her own. She said: 'When I told the therapist how I had been abused she said I needed to read self-help books. It was ridiculous. While I didn't want medication I just wanted someone to listen to me and to give me encouragement to build myself back up.'

"Her tragic story is far from unique. She said that some of her friends have gone through similar ordeals and have had complaints brushed aside by their clerics.

"Aliyah said that clerics always put their community's reputation ahead of women's welfare.

"In the current situation, with the Muslim community here feeling that it's being attacked and regularly discriminated against, imams don't want to bring up issues that involve the community because they fear that it would ruin the reputation of the Muslim community further.'

"'Aliyah's' name has been changed to protect her identity."

In response to announcement of the CIP study, Yousif al-Khoei, spokesman for the official Mosques and Imams National Advisory Board (MINAB), said some clerics justified domestic violence, but described them as a minority. Al-

Khoei, however, opposed public identification of these imams, saying, "instead, we should encourage women to seek advice from proper imams." Al-Alawi said, "A lot of women who are brought from foreign countries to join their spouse here, firstly they cannot speak English and the imam is very reluctant to have a conversation with a woman because they feel there is a barrier... There's a lot of sexual abuse as well, which is apparently considered taboo for Muslims to talk about."

Forced marriage has become a major topic for discussion among British Muslim women. Faiz-ul-Aqtab Siddiqi's Muslim Arbitration Tribunal (MAT) has argued against confusing "forced" marriages with "arranged" marriages, arguing that while the former are banned in Islamic law, the latter are permitted.⁸⁴ British legal authorities similarly distinguish between forced and arranged marriages on the grounds that the latter may be consensual. Siddiqi's group has used the issue of forced marriage, like that of divorce, to press for official enforcement of MAT decisions by the British authorities.

Forced marriage has been imported into Europe from tribal-based cultures, but children of immigrants may then be sent back to their original countries for such weddings. The custom is commonest in Britain among Pakistani immigrants, with the majority involving Pakistani children who are often married to their cousins.⁸⁵

In Britain, charities and non-governmental organizations monitor what they describe as the growing incidence of forced marriage in their country. In the UK, up to 2,000 children were reported to have disappeared from primary schools and were believed to have been forced to marry abroad; the total number of children forced into marriage from Britain may be 3,000 each year. The British Government has established a Forced Marriage Unit (FMU) that rescued some 60 children 15 or younger between 2005 and 2008. The unit receives 5,000 calls and develops about 300 cases annually, a third

involving victims under 18. Girls are not the only prey; around 15 percent of cases involve forcing boys into marriage. But these cases, both female and male, are considered to represent a small share of the problem.

In 2008, a nine-year-old from a Pakistani family in Britain was removed from parental custody after authorities learned she had been told she would be married. When the girl informed a teacher in her school of her impending wedding, she was at first met with disbelief. A helpline launched in April 2008 has registered an average of one case per week involving a child 16 or under. A year before, a girl of 11 was rescued in Bangladesh and repatriated to Britain after an attempt to marry her to an older man. A teenage girl from a Pakistani family reported to British media that she was taken out of school at 13, sent to Pakistan, and raped and abused in a forced marriage. In the British town of Luton alone, 300 forced marriages are reported to authorities each year.

Late in 2008 a series of cases in which Muslim women were taken to Pakistan and subjected to attempts at forced marriage were exposed in British media. A 15-year old, Shafaq Malik, who was abducted under such conditions, was rescued from a village in Mirpur by two UK diplomats and returned to her British home, under a “consular assistance” program, before the wedding was completed. *The Daily Telegraph* disclosed that the British High Commission in Pakistan had intervened in 131 such cases in 2007, reflecting increased appeals for help by victimised women. UK Foreign Secretary David Miliband announced that such diplomatic efforts would continue.⁸⁶ Soon thereafter, another remarkable case was publicised, in which a 33-year old Muslim woman doctor, Humayra Abedin, was tricked into visiting Bangladesh, her country of origin. She was beaten and drugged while her family married her to a Muslim stranger, without her consent, after transporting her around Bangladesh to conceal her presence. She was



Doctor Humayra Abedin, 32, leaves court surrounded by police after the Bangladesh high court declared her free in Dhaka. Photograph: STR/EPA

freed after an action by the UK High Court under Britain’s Forced Marriage Act, which bans such unions; the legal action was reaffirmed in a Dhaka court.⁸⁷

In many cases, Pakistani girls as young as seven years old are sold by their parents to men in their 60s and older, for financial motives alone. The victims of this practice become sex slaves. Traditional Muslim scholars argue that these practices contravene *Shariah*, yet they remain tolerated and even encouraged among Pakistanis living in the West. The primary issue must be that of consent, since the girls trapped in these marriages are not old enough to make such decisions. In traditional Islam, the consent of the bride is required for the marriage to be valid, but it is absurd to believe that informed consent is present in a girl aged seven. In addition, the payment of “bride price” to the parents of the girl violates *Shariah*, since dowries are supposed to be paid to the bride, not to her family. Finally, forced marriage of young girls to old men is obviously abusive and harmful to the victims, both physically and psychologically, since the girls cannot be expected to assume any of the normal responsibilities of marriage.

Forced marriage became illegal in Britain under the Forced Marriages (Civil Protection Act) 2007, “to make provision for protecting individuals against being forced to enter into marriage without their free and full consent and for protecting individuals who have been forced to enter into marriage without such consent.”

The act provides for issuance of protective orders (similar to restraining orders in the U.S.) Applications for such orders may be made by the person to be protected, a relevant third party, or any other individual. The order may be issued for a specific period of time, and provides for arrest of violators.

Forced or otherwise illegal divorces are also known among British Muslims. In January 2009, in the Leeds area, an imam was reported to have divorced his wife without her knowledge.⁸⁸ Khalil Kazi, 39 years old and a father of two, was sentenced to two years in prison after he “manipulated the judicial system” to divorce his seriously handicapped wife Meimouna and remarry, while keeping control of Meimouna’s settlement of £1 million sterling, a payment based on a hospital malpractice complaint following an epidural abscess. Kazi, a part time imam at HM Prison Armley, Leeds, for 12 years, forged his wife’s signature on divorce papers, but had already met another woman, Bouchra Laroussi, in Morocco. He brought Laroussi to the UK and married her. Meimouna only found out she was divorced without her consent when she learned of the second marriage and decided to separate from Kazi.

Faiz ul-Aqtab Siddiqi has also admitted inequities in the divorce proceedings his organization administers. He noted that in an inheritance dispute handled by the court in Nuneaton, the estate of a Muslim man was shared out between three daughters and two sons. The *Shariah* judges gave the sons twice as much as the daughters, whereas in a British court, the division among the children would have been equal. In six domestic violence complaints, Siddiqi said his judges ordered nothing more than that the husbands take anger management classes and be mentored by Muslim elders. There was no further punishment, and the women plaintiffs ceased cooperating with police in the cases.

Siddiqi’s call for official enforcement of *Shariah* mediation elicited a strong repudiation from the UK Conservative Party’s spokesman on

legal affairs, Dominic Grieve, who declared,⁸⁹ “arbitration tribunals can settle some disputes and have their judgments enforced. But they must act within the principles of English law. They can’t forbid girls to attend mixed classes in school or award sons the bulk of inheritances merely because the parties agreed in advance to accept the verdict – any more than a regular court can enforce a voluntary contract of slavery or prostitution.” Grieve’s comment represented a significant response to Westerners who argue that *Shariah* arbitration is merely a variety of contract between voluntary parties, enforceable at law like any other.

In October 2008, British media reported that cabinet ministers had approved plans to allow *Shariah* councils to settle financial, property, and child-custody disputes, with the proviso that their decisions must be approved by a UK family court, under arbitration laws.⁹⁰ The action was disclosed by junior minister Bridget Prentice in reply to a parliamentary question. Prentice stated that *Shariah* councils would have no recognised jurisdiction and that religious decrees would lack legal force. She stipulated, “If, in a family dispute dealing with money or children, the parties to a judgement in Sharia council wish to have this recognised by English authorities, they are at liberty to draft a consent order embodying the terms of the agreement and submit it to an English court. This allows English judges to scrutinise it to ensure that it complies with English legal tenets.”

So-called “honour” murder of Muslims, both male and female, is known in Britain, but the practice and related forms of abuse are also found among Hindus and Sikhs, as well as in the Christian and Jewish communities. Kurds, among Muslims, have been especially known for the practice. While there is no “official” legitimisation of so-called “honour” murder in Islam, and it is typically described as a cultural, rather than a religious problem, numerous Muslims have, as with other problems previously described, criticised the clerical strata for failing to prevent such atrocities. In a 1998

fatwa,⁹¹ the fundamentalist ECFR held that husbands may prohibit wives from visiting certain women friends if the husband fears harm to the family or a risk to conjugal relations. As we shall see, precisely such bans are often at the source of so-called “honour” murder.

Early in 2008, a non-religious British think-tank, the Centre for Social Cohesion (CSC), published an extensive survey of so-called “honour” murder and related atrocities including female genital mutilation (FGM) in the UK, titled *Crimes of the Community*.⁹² The study included forced marriage as an “honour crime,” along with a description of one of the most shocking cases of abuse of a Muslim woman in Britain, which incident has been widely discussed among British Muslims. As the report stated, “Sana Bukhari, an outreach worker at the Ashi’ana refuge in Sheffield, says: ‘I have one case when someone was brought over and her husband had mental health issues; he had the mental age of a five year old but the body of a 40 year old. It was a telephone nikah, so the girl only saw what he looked like on picture and thought “gosh he looks good.” When she finally arrived she found out that he was disabled, and this girl was very pretty, so the mother in law decided to invite all these men over, and it was prostitution. The girl however managed to escape and go to the police.’”

The CSC report summarised the situation of British Muslim women in dramatic terms: “This study shows that honour killings, domestic violence, forced marriage and FGM are not isolated practices but are instead part of a self-sustaining social system built on ideas of honour and cultural, ethnic and religious superiority. As a result of these ideas, every day around the UK women are being threatened with physical violence, rape, death, mutilation, abduction, drugging, false imprisonment, withdrawal from education and forced marriage by their own families. This is not a one-time problem of first-generation immigrants bringing practices from ‘back home’ to the UK. Instead honour violence is now, to all intents and purposes, an indigenous

and self-perpetuating phenomenon which is carried out by third and fourth generation immigrants who have been raised and educated in the UK... Many of these problems are common to all societies. Domestic violence and ‘crimes of passion’ exist worldwide. However, honour crimes differ significantly from other outwardly similar crimes. While typical incidents of domestic violence involve men using force against their wives, honour-based abuses regularly involve a woman’s own sons, brothers and sisters, as well as members of their extended family and in-laws. Similarly, the pre-planned and ritualised nature of much of this violence (particularly in the case of honour-killings and FGM) makes such behaviour distinct from other ad-hoc forms of violence against women.”

CSC noted that “damage to honour” may arise from defiance of parental authority, Westernised habits including use of intoxicants, premarital sex, and gossip. Some of the consequences of loss of honour described in the CSC report, however, do not seem to fit with criminal behavior or atrocious mistreatment. The CSC stated that humiliation based on honour may include social ostracism, such as bullying of children, boycott of businesses, diminution of political prestige, and loss of self-esteem. While all such phenomena may be regrettable, they are difficult if not impossible to expunge from society. Western countries, and Britain in particular, have become so sensitised to such issues as childhood bullying that unfortunate behavior that has existed for many generations has been transformed into a public policy issue. But the CSC report also determined that Muslim girls may be withdrawn from school if it is feared that education will make them too assertive of feminist or otherwise independent attitudes. Such attitudes are unrelated to *Shariah*, which nowhere pronounces on the appropriateness of female schooling.

Regarding so-called “honour” murder *per se*, CSC, based on data reported in 2003, declared, “The police and the Crown Prosecution

Service [CPS] have said that on average 10-12 women are killed in honour-based violence every year in the UK. If this figure is true, honour killings would amount to a relatively small proportion of the total number of murders committed annually in the UK. However, the exact number of honour killings in the UK is not known – partly because there is no clear definition of what constitutes an honour killing – and many believe the true figure could be higher.” Unfortunately, a vaguely-estimated quantification of such crimes, abominable as they are, is unhelpful in assessing the prevalence of “*Shariah* abuse” among European Muslims. A more precise estimate was offered by the European Parliament in its 2007 report on the problem.⁹³ The EP stated, “Between 1993 and 2003 police identified 109 honour-related crimes across U.K. and Europe.” The CSC, for its part, alleged that the incidence of so-called “honour” murder might expand statistically based on inclusion of “crimes of passion” among non-Muslims including Christian and Jewish Britons as well as Hindus and Sikhs, along with slayings committed after repatriation of immigrants to Pakistan or Kurdistan, disappearances after return to native countries, and suicides.

In a further elaboration that remains empirically elusive, CSC said, basing itself on news reports, “Most of the honour killings known to have occurred in the UK appear to have been carried out by people of South Asian Origin. Most of these murders are carried out by Muslims from Pakistan and Bangladesh. Hindus and Sikhs also carry out honour killings but seemingly at a proportionally lower rate. Although many – and perhaps most – honour-related murders are carried out by first-generation immigrants to the UK, an increasing number also involve people born and raised in Britain. Honour killings by South Asians occur nationwide.”

So-called “honour” murder is often ascribed to opposition to marriage out of Islam or with a partner from a disapproved ethnic group, even if it is Muslim. Sunni Islam permits

Muslim men to marry non-Muslim women, while Shias are allowed only to enter into “temporary marriage” (*muta’a*) with non-Muslim women. (While *muta’a* is condemned by Sunni Muslims as well as non-Muslims as a pretext for prostitution, it has not attracted considerable attention in Britain.) Islam forbids Muslim women from marrying non-Muslim men, though such intermarriage is common in some Muslim societies. It is important to note that while this problematical matter is inseparable from *Shariah*, resentment of intermarriage between religions is no more limited to Muslims than are “crimes of passion”.

CSC reinforced the sense of cultural context in so-called “honour” murder, pointing out “the Kurdish regions of Iraq and Turkey have among the highest rates of honour killing per capita recorded.” But it also stipulated that “there are relatively few recorded cases of honour killings by Kurds in the UK. Only two Kurdish women are recorded as having been killed by their relatives in the UK”. CSC stated, “there have been no recorded honour killings by Arabs in the UK – even though many women’s groups say that domestic violence among Arab immigrants is common”.

In 2002, an Iraqi Kurd living in Britain, Abdullah Yones, 48, killed his 16-year old daughter Heshu by cutting her throat after stabbing her 18 times.⁹⁴ Yones had discovered that Heshu had a Lebanese Christian boy-friend and exchanged love letters with him. The family confiscated the letters, compelled her to undergo a vaginal examination to confirm her virginity, and sent her to Iraq, which she feared was an attempt to force her into an unwanted marriage. Media reported that the case elicited pressure on British authorities from Kurdish women across the country, who demanded that the killer be brought to justice, although Kurdish men appeared in the courtroom to defend the accused. Yones was sentenced to life in prison. In the aftermath of the Yones case, UK police examined 122 deaths and disappearances of minority women in the preceding decade, of

whom 81 were from the London region.

Another so-called “honour” murder in Britain was disclosed in December 2008 when Emran Hussan, 27, of Bedford, killed his wife Rubina, 21, by asphyxiation, claiming he feared she would abort their child.⁹⁵ The husband turned himself into police and admitted the crime. The couple were cousins from Bangladesh. Significantly, the husband mainly worked in Saudi Arabia, where such incidents are common and effectively unimpeded. Rubina Hussan was married at 18 and told doctors she believed she was too young to have a child. Emran Hussan was found guilty of murder and sentenced to life imprisonment, with a minimum of 12 years.

In December 2008, the UK Crown Prosecution Service (CPS) issued a pilot report on forced marriage and honour crimes.⁹⁶ The document was compiled by CPS in cooperation with the UK Departments of Health; Children, Schools and Family; Ministry of Justice; Home Office; and the Foreign and Commonwealth Office, as well as non-governmental organizations. The CPS findings had been collected beginning in July 2007 with the following goals:

“a) To identify the number and pattern of cases;

“b) To identify issues facing prosecutors in accurately identifying, managing and prosecuting these cases;

“c) To inform the development of any national guidance and training for prosecutors.”



Victim: 16-year old daughter, Heshha Yones



Murderer: 48-year old father, Abdullah Yones

The survey was conducted in four CPS Areas: Lancashire, London, West Midlands, and West Yorkshire; four London Boroughs participated (Newham, Brent, Tower Hamlets and Ealing). The survey covered nine months and was concluded in March 2008. CPS identified 35 cases of forced marriage and/or so-called “honour” crime during the survey; 21 cases were brought to court and 10 ended in convictions. In the wording of the report, “All defendants... were male; aged, on average, 29 years old; and most defendants were classified as Asian (Pakistani, Bangladeshi or Indian)... Victims were almost equally likely to be male or female with most of these ‘honour’ crimes stemming from a relationship with a woman, who herself suffered harm, within a situation of male family control.” The report further commented: “One of the key issues in relation to defendant profile was the tendency for individuals to be aged under 35 years old. Three defendants were aged 10 to 17; just under a third (10 of 33) aged 18 to 24 and just over a third (12) aged between 25 to 34 years old.”

As a companion document, CPS also issued policy recommendations for dealing with these issues.⁹⁷ The report concluded that when prosecutions failed, difficulties in securing testimony from victims and witnesses were typically responsible, “indicating a need to address specific support systems for victims”. In addition, CPS called for “setting up a forced marriage/so-called ‘honour’ crimes witness familiarisation programme to develop expert witnesses on these crimes, as part of ongoing work around expert witnesses”.

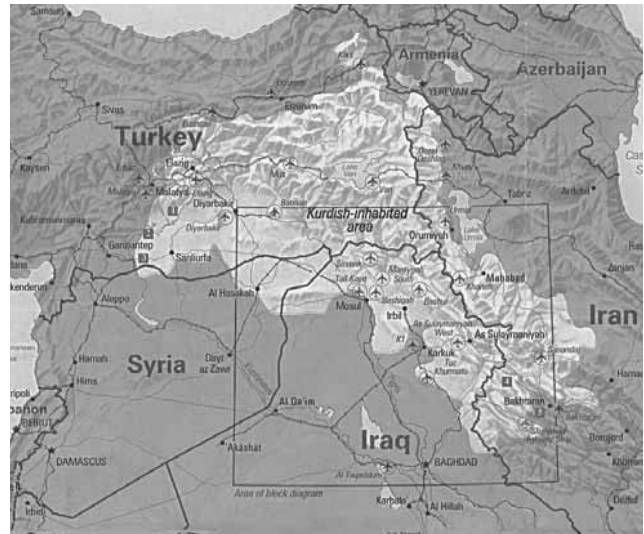
Female genital mutilation (FGM) is legitimised by some scholars of Sunni *Shariah*, but such authority is derived from controversial *hadith*; as previously indicated, the fundamentalist *Shariah* authority Al-Qaradawi has issued a qualified endorsement of the practice. CSC correctly notes that “almost all Muslim clerics oppose infibulations (Type III FGM)⁹⁸ which they usually regard as an unlawful pre-Islamic practice” . CSC further

points out, “FGM is also found in non-Muslim cultures and societies – primarily in Africa. In Egypt, the practice is as common among Coptic Christians as among Muslims. Similarly the practice is found in Christian areas of East Africa such as Ethiopia and Eritrea as well as in parts of West Africa where animalist (sic) beliefs are still prevalent.”

As with so-called “honour” murder, Kurdistan is especially known as an area of FGM, outside the African and peninsular Arab region. With immigration of Kurds from Iraq to Britain since the first Gulf war, FGM may occur in the UK, but data on the practice is lacking.

FGM was outlawed twice in the UK, by the Prohibition of Female Circumcision Act 1985 and the Female Genital Mutilation Act 2003. A 2006 study of FGM by the UK Department of Health⁹⁹ estimated that some 75,000 women living in Britain had undergone the practise, prior to immigrating to Britain. But no complaints have been brought under the 1985 or 2003 laws regarding the practise.

Polygamy among British Asian Muslims was widely exposed by media at the end of 2008¹⁰⁰ when, shortly before her 24th birthday, Sahar Daftary, a model from Afghanistan, died in an apparently suicidal fall from the 12th floor of the building where her husband, Rashid Jamil, 33, a former curry restaurant owner, lived. Sahar’s sister Mariya Massumi, 34, suggested that Sahar had not committed suicide, which could make the case a so-called “honour” murder. A friend of Jamil stated that he was drunk when the wedding took place and that nobody from his family was present, allegedly because they disapproved of marriage to an Afghan woman. Daftary, who was crowned Miss Face of Asia in a beauty contest in 2007, discovered that Jamil was already married to Narissa Amjad, a 29-year old marketing executive, with whom he had two children, Sami, 4, and Eeshal, aged 1. Jamil reportedly contracted the earlier marriage with Amjad while married to another woman, Sebina Malik, now 32, a solicitor. Malik had a daughter, now 11,



Kurdistan

with Jamil but divorced him on grounds of adultery and unreasonable behavior. Daftary complained to police that she feared she was being stalked, and a sex tape in which she appeared was posted on the Internet.

Both Jamil’s marriages were based only on *nikah*. Daftary had been married in Britain and had a miscarriage about two months after her wedding, when she learned of her husband’s polygamous relationship. She moved out of Jamil’s house and then sought an Islamic divorce from him. He attempted to end the relationship by *talaq*, or a triple declaration of divorce, leaving the woman with no rights or division of property. When the tragedy was reported in *The Times*, Ghayasuddin Siddiqui, the head of the so-called Muslim Parliament of Great Britain, admitted that Islamic clerics performed polygamous weddings unrecognised by civil law.

Regarding issues of women’s dress among Muslims in Britain, fundamentalist Deobandi women will typically wear *hijab* and even a full *abaya* and *niqab* (total covering including the face veil), while traditional, Sufi-oriented Barelvi women wear loose tunics and trousers – ethnic garments that do not cover or hide the shape of the whole body, and may be quite fashionable. The same outfit may be worn by Barelvi men. Barelvi men also frequently wear Western clothing, while Deobandis affect a

long, white “Islamic” garment. Barelvi women pursue professional careers, while Deobandi women may be kept at home, out of public scrutiny.

In the cities of Dewsbury, Bradford, and Leicester, full body and facial covering (*abaya* and *niqab*) are notably more visible than in other British Muslim communities. Elsewhere a mix of *hijab*, *abaya*, Wahhabi short pants on men, and tracksuits and sports shoes are increasingly visible. Traditional Muslims view such a *mélange* with disdain, arguing that Muslims should choose either Muslim or Western garments, but should not attempt to satisfy both cultural modes by mixing them.

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Appendix to Case Study: Britain
Islamist Ideology at the British Bedside
 By *Qanta A. Ahmed MD*

Introductory Note

Because the UK is a global centre for medical training, and employs numerous Muslim medical professionals, specialised attention is necessary regarding encroachment of *Shariah* agitation in the training of UK medical personnel. CIP therefore publishes the following commentary on this topic from a leading moderate Muslim doctor. During our field survey, when questioned on this topic, one interviewee commented, of British Muslim medical students who now refuse to attend classes on alcoholism and other problems produced by practices banned in Islam, that God, not doctors, will punish sinners, and that a patient suffering from alcoholism or a sexually-transmitted disease could become favorably disposed to Muslims if treated with correct medical care and kindness by a Muslim physician. *Centre for Islamic Pluralism*

* * *

I glance out of the window at a dreary British afternoon slowly unraveling into early evening. Across the street I sight the window of what had been the home of the tragically-deformed "Elephant Man." Today, more than one hundred years later, a new and grotesque spectacle is drawing a crowd.

Below, on the steps of a monument, a young British Asian Muslim, probably of Pakistani background, hands out cassette tapes. Passersby with faces covered in an "Islamic" manner snatch the tapes, sometimes with gloved hands that scuttle back into the obscurity of their body-concealing garments. Others stuff the plastic cases into grubby Western-style jackets worn over an imported *thobe*, the traditional Saudi style of male dress.

Many rush by a small theatre without taking note of the street agitator, figures in robes, *abayas* and *chadors* quickly swallowed up by the dank, green light of the Whitechapel Tube station. Only a sprinkling of impassive

constables remind me I watch this scene in London – everyone else is dressed in either full body coverings, for women, or *thobes*. I am witnessing a modern tragedy: the rise of Muslim fundamentalism in Western Europe, with Muslims enjoying advanced, modern education but ignorant of their religion.

It is eighteen months before the London bombings of July 7, 2005. I look back at the speaker, thrusting his recordings at the crowd. He also wears a *thobe*, elevated above the ankle in the manner typical of fundamentalist Wahhabi clerics. The cheap polyester of the garment is obvious, and it is neither pressed nor starched, so unlike the elegant Saudi men I have known in Riyadh. I watch it flutter limply in the October wind. Inflated with hate, he seems almost like a boat ready to set sail, anchored only by his heavy Nike sports shoes and a leaden sense of evil.

"Death to America! Death to Israel!" he shouts in a distinct "Geordie," or Northeast English, accent. His head is high, one fist in the air. Policemen look on passively, unperturbed by his flailing arms and rising pitch. Around him, several more British Asians gather in a thin cluster, appearing unsure whether to stay or go, but pulled to him by his energy.

Of course, the irony was doubtless lost on him that his hate was expressed on the steps of a monument donated to the community of Whitechapel by British Jews who had thrived there 90 years before. I become aware that while the working class British Jews who lived here had dignified the neighborhood with a monument, working class British Muslims today are desecrating it.

My pager goes off, pulling me out of this view into European Islamofascism and back into the world of East London critical medical care. I would see the same abhorrent scene the following Tuesday. The same agitator was a fixture of the street. In my first few months in London I learned that such scenes were common in the great city at the beginning of the 21st century. But I rushed away, needed in the Intensive Care Unit.

The Royal London Hospital serves as a major trauma facility in one of the most densely populated Bengali communities in the UK. Sensitive to the needs of its patients, every sign in the hospital appears in English and Bengali, even special, non-alphabetic “speaking Bengali” signs, in recognition of illiteracy in the community. The hospital serves many Muslim patients, most of whom are profoundly dedicated to Islamic practice. Some of the fundamentalist doctrines of this religious outlook defy a normal imagination. I recall a patient who insisted, during an interview with me, on expectorating all his saliva, which he carefully sealed in a plastic bottle and stored in his pocket. When asked, he responded he was fasting for Ramadan and therefore not permitted to swallow his saliva.

As a Muslim physician myself, recently returned from practicing intensive care in Saudi Arabia, I considered myself uniquely prepared for ministering to this population in Britain’s capital. I was familiar with Muslim patients adhering to Wahhabism or “Salafism,” and had spent two years navigating these belief systems while dealing with the initiation of critical care, organ transplantation, and decisions about the end of life. Riyadh, as I was surprised to learn, had prepared me well for East London. Whitechapel seemed effectively Wahhabised.

I soon discovered the extent of my own ignorance. I was unprepared for the presence of radical Islam among my medical colleagues in London. Working in the Kingdom of Saudi Arabia, my fellow physicians (almost universally Muslim) came from all over the Middle East. While many were Saudis, others were Omanis, Syrians, Lebanese, Jordanians, Pakistanis, and Indians. Some of the Saudis were themselves scholars of Wahhabi Islam, trained in Islamic theological schools before pursuing their medical degrees and subspecialty training – the latter often in centers of known excellence in the West. Yet their attitudes were remarkably diverse.

Inside the East London ICU unit, I had been called to attend a patient in distress. As I studied the rolling screen of X rays, I asked the anesthesia resident to read the films. Faisal, the gentle young medical assistant at my side, was known to be a caring doctor. I had previously worked with him. As usual he was dressed in operating room scrubs, yet even in these he revealed his Islamic identity. His scrubs were a fraction too short above his surgical clogs. I doubted this was accidental. The hems of his trousers were damp, likely from his ablutions before afternoon prayer. His wispy beard was untrimmed, in the manner believed by Wahhabis to be proper, in emulation of the Prophet Muhammad *sallallahu-wa-aleyhi-sallam* (peace be upon him). The long-lashed eyes of Faisal, the anesthesiologist, were framed by gold-rimmed Cartier eye-glasses, a startling juxtaposition of consumerism (again very common among prosperous Saudis) with his otherwise-ascetic habits. I wondered if he was aware that Muslim men are not permitted to wear gold (gold being reserved only for Muslim women). As I moved away from the X-rays, I squeezed some alcohol hand rub from the wall-dispenser, cleaning my hands on the way to see the patient. Noticing my colleague had overlooked this, I pointed out the device to Faisal, suggesting he do the same.

“No thank you, Dr Ahmed. I will wash my hands in the sink,” he declared as he moved swiftly towards the water faucets. I began explaining that revised recommendations on hand hygiene for doctors suggested hand washing with antibacterial soap and water only when hands are overtly soiled with bodily fluids, like blood. For all other purposes, alcohol handrub is preferred as a more effective protection against bacteria.

He looked at me apologetically. “Oh no, Dr Ahmed, you don’t follow. I am a Muslim,” he said. I suddenly wondered if he had failed to recognise my Muslim character. Or if, even worse, he had not realised I understood he was Muslim.

“It is *haram* [banned in Islam] for me to touch alcohol,” he continued. “I can’t use alcohol hand rub on my skin.”

I was amazed. His refusal of the most basic means to control infection was based on his religious ideology, a radical interpretation I had not encountered even among Saudi physicians who claimed to participate in the Wahhabi religious militia, or *mutawiyin*. How had he acquired these beliefs?

He had been brought up in the Saudi commercial center of Jeddah while his parents had, for some time, worked there. He was British by birth and Pakistani by background. He was of the same ethnic heritage as mine, yet extraordinarily different in his views. He had married at an early age and his Pakistani wife was secluded at home, her face fully covered by *niqab* in public. Like me, he had graduated from a British medical school, but ten years after I obtained my degree. Indeed, he had attended Barts, one of the oldest and most distinguished medical colleges in the UK; his education was more elite than mine. We had met while he was early on his way to becoming a consultant anesthesiologist in Britain, where experience in the ICU was a required component of his training.

Disturbed by his attitude to the hand rub, I mentioned the incident to friends at an international scientific symposium in Riyadh, the Saudi capital, a few months later. I joined some foreign and Saudi experts in infection control and hand hygiene; we collected anecdotal observations and tried to sort out these issues, in a brief report published in *The Lancet*, the leading British medical journal, in 2006.¹⁰¹

Far from being a phenomenon remote from the patient’s bedside, Islamist ideology now intrudes on basic practices of Western medicine. While the extent of this problem is unknown, it is unlikely that rejecting alcohol-containing agents is an isolated occurrence. Medical workers in Australia have conducted studies documenting the lack of systemic absorption of alcohol through topical use,¹⁰² to

dispel commonly held but mistaken beliefs about the mere act of touching alcohol.

The absence of this resistance to alcohol hand rub is striking in the Saudi kingdom itself, whether by patients, practitioners or Islamic clerics. The use of alcohol-based hand hygiene was introduced throughout the kingdom with no resistance or need for special permission. Official Saudi Wahhabi authorities ruled in favor of these medications, in keeping with the traditional *Shariah* principle that in the interest of preserving life, and in related urgencies, “necessities overrule prohibition”.

In the same context, even medications derived from pork materials (including porcine low-molecular weight heparin, a blood thinning agent) were also made available in the kingdom and are used when indicated for Saudi patients, always with their informed consent.

Saudis, while often viewed unfairly, in my view, as universally extreme adherents of Islamic fundamentalism, are, in the realm of medicine, a very well prepared and mature populace ready to pragmatically modulate their belief systems, with the arrival of new technologies and treatments. Patients in Saudi Arabia also show almost universal and unwavering belief in physicians’ recommendations, irrespective of the doctors’ own religious beliefs – including those of both Christian and Muslim practitioners. This was personally and consistently confirmed for me. Despite my being an uncovered woman in Western dress while practicing critical care medicine, even illiterate Bedouin women accepted my counsel without objection. Additionally, I never encountered a Saudi physician or surgeon refusing to use alcohol hand rub, during two years’ practise in Riyadh. Nor did any family member object to its use prior to examination of a relative.

This passivity in Saudi Arabia toward evolving medical practices could be a product of Saudi patients’ and Saudi physicians’ acceptance of whatever is dictated to them under the Wahhabi interpretation of *Shariah*. Further, most

practitioners in Saudi society, whether locals or expatriates, tend to be Muslims, perhaps reinforcing the population's confidence in the medical hierarchy as a helpful, positive and benevolent force within the kingdom, meriting trust.

In contrast, Muslims raised primarily in Western, non-Muslim societies may not feel protected by society, even if that society supports and nurtures their right to a unique religious identity. Despite brief exposure to other societies, whether growing up in Jeddah as in Faisal's experience, or like other youngsters sent to Pakistan or other areas for a "better grounding in Islam," there is a tendency for many to acquire new "Islamic" identities. They encounter distorted interpretations during these sojourns, before returning to what Islamists may refer to as the lands of *jahiliyyah* or pre-Islamic ignorance. Islamists use this term to refer to a fall back into "pre-Islamic oblivion," allegedly present in non-Islamist-ruled, Muslim-majority states as well as in the West, although in traditional Islam, the term refers simply to lack of knowledge.

On returning to Western Europe, feeling excluded and apart from these radicalised Muslims, I sensed an intangible disadvantage among them in dealing with prevailing social norms. In the medical profession, they may believe they lack Muslim role models, easily missing those of us who supposedly appear non-Muslim because of our "assimilation" or heterodox interpretations of Islam – interpretations which were once almost universal in the small British Muslim establishment, made up of South Asians who had come to Britain seeking work after the massive immigration of West Indians. Young Muslim physicians today may feel they lack senior professionals with whom they can relate and, discounting guidance from mature professionals simply if the latter are "non-Muslim," they rely instead on the diminished guidance provided by zealous clerics with extreme views. Additionally these young British Muslims may also feel an exaggerated need to express an overt religious identity by

limiting their beliefs, as distinct and apart, so as to feel their Islam is sufficiently different from Western values. This is a way to compensate for feelings of inadequacy, or, perhaps, fear of submersion in Western culture. These doctors may consider themselves "conservative" Muslims first

Among pockets of Islamist ideology in the West, much is based on refusing behavior prevalent in both the wider Muslim mainstream and among non-Muslim Westerners – such as women working outside the home, or listening to music. Both are denounced by the radicals, and by Sunni conservatives, as un-Islamic, although there is no basis for these claims in *Qur'an*. The rejection of alcohol hand rub represents something even more extreme than a retreat into *jahiliyyah*, particularly in its arrival in 21st Century London. Western Europe has seen a growing politicization of Islam, the case of *hijab* being one bit of evidence, the adoption of archaic Arab male attire and the peculiar Wahhabi beard being others. The widespread adoption of both Saudi and Palestinian scarves by male and female British Muslims seems especially strange in that many of the young are Pakistani from the London East End with no direct relation either to Saudi Arabia or the Palestinians. This ideology supports a negative, rigid definition of "being Muslim," equated with an obviously non-Western appearance. Particularly ironic is the adoption of Saudi attire by untraveled British Muslims who are unaware that Saudi Arabia is not the monolithic country commonly believed to be, but a more nuanced and complicated society in which differing interpretations of Islam exist, regardless of the fundamentalism of its Wahhabi clerics.

Islamist ideology has encroached on the Western medical workplace and presents new challenges to leaders and policy-makers in health care. The British Muslim physician may be in a unique position to contribute to this dialogue and support the dismantling of misconceptions that are both theologically questionable and scientifically disproven.



Medical school curricula could benefit from courses on the impact of physicians' belief systems on health care delivery, with a specific focus on Islamist ideology in Western Europe. While Saudi Arabia is often and justly criticised for its extremist Wahhabi Islam, a dissonance is present between this religious doctrine and the careful and mature views of Saudi medical



(Top and left) Muslim female medical staff, London, The Daily Telegraph

professionals, who have successfully navigated many of the obstacles within their restrictive society.

Most significantly, however, the unanswered question remains: why are illiterate Bedouin women more accepting of Western medicine than highly educated British Muslim graduates training in London?

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5. Case Study: Germany



numbers in the 1960s. Turkish nationals in Germany may be of Turkish or Kurdish ethnicity. Here it must be clearly and unqualifiedly stated that Turkish and Kurdish ethnic identities are, notwithstanding propaganda by the Turkish government, completely different. Turks are speakers of an Altaic language, related to Mongolian, Manchu, and perhaps Korean and Japanese, with an agglutinative grammar. Kurds are speakers of an Indo-European language related to Persian. Turks and Kurds are nonetheless justifiably grouped together in Germany because of their origin in the same country.

Of two million Turkish-Kurdish Muslims in Germany, almost a third, or 700,000, are adherents of the Alevi Community, known in Turkish as *Alevilik* and in German as *Aleviten*. Alevis are a heterodox phenomenon combining Shia Islam, Shia-influenced Sufism, and traditional Turkic and Kurdish cultural elements.¹⁰³ Alevis mainly come from Turkey. They are unrelated to the Syrian Alawite sect or the obscure but influential Sunni Alawi orders of Sufis. As immigrants to Western Europe, Alevis defined themselves as a religious community only recently; previously, they were mainly self-identified as secularists.

Germany is also the home of some 300,000 Bosnian Muslims, 225,000 Arabs (excluding Iraqis), 125,000 Iranians and Iraqis, 120,000 Africans, and smaller numbers of Afghans and Pakistanis.¹⁰⁴

Turkish, Kurdish, and Bosnian Muslims in Germany are overwhelmingly secular in their outlook, and for this reason *Shariah* agitation has been a limited phenomenon among them. Floris Vermeulen, a Dutch scholar and author of a

Introduction

The German Muslim population totals approximately three million, of 84 million Germans, or four percent, and represents the second largest Western European Muslim population, after the French Muslims. Within this aggregate, it is generally accepted that two million, a majority, are or are descended from immigrants from Turkey, who began arriving in Germany in significant



Turkey in Germany



Kurdistan in Germany



Mustafa Kemal, founder of the Turkish Republic

dissertation comparing Turkish immigration in Berlin and Amsterdam,¹⁰⁵ has written, “The first Turkish immigrant organisations in Western Europe, founded in the late sixties and early seventies, were mainly leftist and rightist political workers’ organisations that were strongly focused on Turkey and on each other... left-right political polarisation was imported from Turkey... Civic organisations were banned in Turkey in 1980 [and] oppositional and marginal groups set up organisations abroad to resist the power of the Turkish state. A wide array of political and religious movements jockeyed for power in the growing Turkish communities in Western Europe. The major polarities were radical left versus radical right, Turkish versus Kurdish, Sunnis versus Alevis, and religious versus secular. In all the organisational disputes arising from these struggles, representatives of the Turkish state played significant roles. The Turkish state founded and supported pro-state organisations, and opposition movements set up groups of their own.

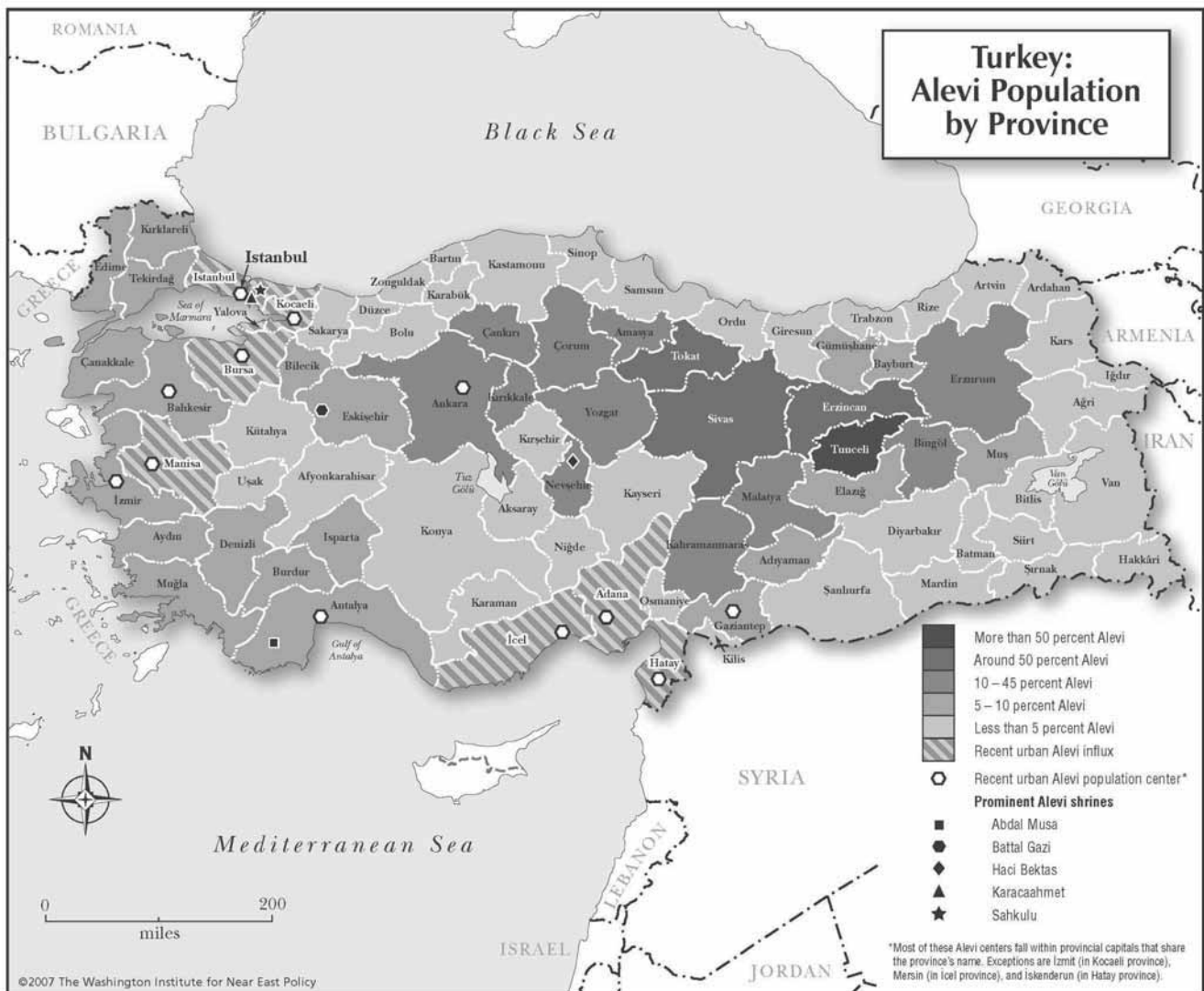
“This ideological rivalry had a dramatic impact on the establishment of new Turkish organisations in Western Europe. No group could afford to stay behind, hence the number of new

Turkish organisations exploded. There were left-wing political movements and oppositional Turkish Islamic movements (of which the most important were banned in Turkey) as well as Islamic organisations that were supported by the Turkish government. The emerging oppositional Islamic movements in Turkey set up their own branches in Western Europe, furthering the proliferation of Turkish religious immigrant organisations”.

In Rohe’s previous citation, it was correctly stated, “Muslims[,] especially [of] Turkish origin would understand the term *shari’a* in a narrower sense, confining it to the legal rules regulating personal status, family and inheritance and corporal punishment”.¹⁰⁶ It should here be emphasised that this narrow definition lends itself to a critical attitude toward *Shariah*, oriented toward secularism and shared with non-Muslims. Alevis and certain other Sufis recognise *Shariah* as an abstract definition of religion or Islam in general but frequently do not observe or promote it as a set of rules. At the same time, Kurdish Alevis in Germany are well-informed on so-called “honour” murder, a practice which they publicly condemn and combat through mediation as a specific element of their ritual observance (described in section 4 of *Case Study: Germany*.) Alevis are “feminist” in their acceptance and even promotion of female equality.

Because of its main roots in Turkey, German Islam continues to face a multiply contradictory situation.

First, Turkish Islam in Germany is closely aligned with the Republic of Turkey’s state Islamic administration, *Diyanet*, through the Turkish-Islamic Union for Religious Affairs, known as DİTİB. Its German title is *Türkisch-Islamische Verein der Anstalt für Religion e V.*, but its acronym is based on its Turkish equivalent: *Diyanet İşleri Türk-Islam Birliği*, and it is headquartered in Ankara. DİTİB finances the construction and maintenance of Sunni mosques and employs their imams and *hatips* – the latter being preachers of sermons at Friday congregational prayer. It counts almost 900



affiliated mosques and cultural centres.¹⁰⁷ DİTİB has been described in a rigorously objective, and, if anything, somewhat understated report by the International Crisis Group as, in effect, a political agency maintaining ideological conformity among Turkish Muslims in Germany: “a satellite apparatus of the Turkish state and an instrument of its attempt to guard against the possible growth of opposition in the Turkish diaspora”.¹⁰⁸

This makes Germany an example of a Western European country in which a large grouping of Muslim immigrants and their offspring are influenced by the governmental *ulema* (clerical institution) of a foreign country. *Diyanet* also functions in this manner in the Netherlands, as do representatives of the official Moroccan Islamic clergy. Bosnian Muslims living in Western Europe are directed by the

official *ulema* of Bosnia-Herzegovina, but the latter is an independent, non-state body. French Muslims are influenced by the Moroccan and Algerian authorities, but unofficially. DİTİB clerics are widely criticised for speaking only Turkish and obstructing integration of German Muslims.

Second, Turkish Islam in Germany now reflects the heightened struggle within Turkey itself between the secular legacy established by Mustafa Kemal (Atatürk) and the rise of “soft-fundamentalist” Sunnism in politics, as represented by the *AKPartisi* or Justice and Development Party (hereinafter AKP). AKP is widely perceived as a *Shariah*-oriented component of Turkish politics, notwithstanding repeated pledges that it will not infringe on the established secular order in Turkey. AKP in



Şehitlik (Martyrs') Mosque in Berlin © cosmonautirussi

Germany is reported by members of the Turkish ethnic community to be actively associated with the fundamentalist *Milli Gorus* or National Vision movement, founded by the anti-Jewish Islamist politician Necmettin Erbakan in the 1970s and allegedly rooted in DİTİB. Today, however, some observers perceive a tension between DİTİB and *Milli Gorus*, in that DİTİB, aligned with AKP, is forced to moderate its ideology by the requirements of political power.

Known in German as the *Islamitische Gemeinschaft Milli Gorus* (IGMG) or *Milli Gorus* Islamic Community, the latter movement is currently reported to have 200,000 adherents in Germany.¹⁰⁹ It is credited with affiliation of some 400-600 “prayer spaces”, including private premises rather than mosque structures.¹¹⁰ *Milli Gorus* has been associated with ECFR since the third consultative session of Al-Qaradawi’s group, held in Köln in 1999.¹¹¹ *Milli Gorus* declines cooperation with non-Muslim media and other outside interviewers and refused our request to meet its German representatives. It operates a headquarters in the Netherlands, which similarly declined to speak with us. In 2008 it contributed the modest sum of €5,000 to the education of children of Bosnian Muslims killed in the Srebrenica massacre of 1995, illustrating its interest in Europe-wide expansion.¹¹²

Milli Gorus and a smaller and less political movement, the *Verband der Islamischen*

Kulturzentren or Union of Islamic Cultural Centres (VIK), originally overshadowed DİTİB. VIK, popularly known as *Süleymancilar*, are a Sufi-oriented, anti-Kemalist movement with some 300 affiliated mosques. VIK is viewed by Alevis as problematical because of its hostility to secularism.

It is therefore questionable whether the activities of DİTİB will contribute to an orderly relationship between German Muslims and the broader German society or will aggravate differences. If AKP, as many anticipate, presses an Islamist agenda inside Turkey, DİTİB can be expected to replicate this perspective in Germany; further, the role of *Diyanet* and DİTİB in a European Union with which the Turkish Republic seeks affiliation is an unexamined but challenging aspect of Turkish EU entry.

Third, Alevis, although extremely devoted to their religious practice, are victims of aggressive Sunnism in Turkey, and many immigrated to Germany to gain a cultural and religious freedom they found absent in their native land. It is a paradox of Turkish history that the “Jacobin”, centralist Turkism of the Kemalist era, which established the principle that only Turks lived in Turkey, regardless whether they were Greek, Armenian, Kurdish, or Sephardic Jewish in their background, was accompanied by Sunni-centrism in religious affairs. The anthropologist Martin Sökefeld has summarised this reality concisely:¹¹³ “On the one hand Alevis are acclaimed by the Kemalist elite as unequivocal supporters of secularism, but on the other hand Kemalism itself refuses legal recognition of Alevis as a religious or cultural minority because such recognition is seen as a violation of the principle of a united and homogeneous Turkish nation”.

Thus, while the Alevis considered themselves beneficiaries of Kemalist secularism, *Diyanet* and DİTİB pay for Sunni mosques, education of clerics, and employment of the latter in both Turkey and Germany, but support for Alevi meeting houses (*cems* or *cemevi*) and clerics (*dedeler*) has never been included in the

budget of either *Diyanet* or DİTİB. Alevi reject *Shariah* except in the abstract sense previously noted, and they argue that Turkish Sunni hatred of them is based on reaction against this attitude. A significant trend within Alevism is associated with the radical left in politics, both in Turkey and Germany.

Among the remaining Muslims in Germany – Iranians, Iraqis, other Arabs, Pakistanis, etc. – religious radicalism is largely absent. Turkish rightist nationalism and Kurdish leftist nationalism have both presented more serious problems in Germany than radical Islam. Iranians in Germany are frequently refugees from the clerical regime in Iran, and some profess to have abandoned religion. As an indicator of the complex nature of the Iranian community in Germany, émigré Iranian leftist newspapers are as easily available in the country's newsstands as are daily newspapers and magazines from Iran itself.

Attention has been focused on radical Islam in Germany since the investigation of Al-Qaida preparations for the attacks of September 11, 2001 exposed the functioning of the notorious “Hamburg cell” led by Egyptian-born Mohammed Atta. But the activities of the Hamburg group were in our view more indicative of a preference among Islamist extremists for work in Germany, where a radical milieu is absent and terrorist preparations would not have drawn attention, than in Britain, where radicalism has been prominent, increasing, and under wide scrutiny.

Germany is the home of Dr Bassam Tibi, the Syrian-born theoretician of a moderate form of “Euro-Islam”, and professor of international relations at the University of Göttingen. In an



Bassam Tibi

unpublished text,¹¹⁴ Dr. Tibi commented in March 2008, “Recently, the inter-European television station ‘Arte’ aired the inflammatory preaching by an influential imam at the large al-Quds mosque in Hamburg. The Hamburg cell involved in the

attacks of September 11 used to meet there. The ardent imam was warning Muslims against losing their faith. They will do so, he claimed, if they interact with Europeans and live as if they were themselves European... A very high percentage of Muslim immigrants live in parallel societies. The Islam prevailing in these ‘ghettos’ resembles the Wahhabism purveyed in mosques like the one in Hamburg...

“Among those who deal with these issues there are two extreme positions. One is the populist and unacceptable Islamophobic solution, the other is multiculturalism, understood as an attitude that ‘anything goes.’ But outside these extremes, no prudent person can turn a blind eye to the emerging of Islamic parallel societies, which are enclaves within Europe...

“What can be done to make Muslim immigrants true European citizens?

“An integration limited to civic values and to the workplace can be made compatible with a reformist interpretation of Islam adapted to cultural modernity. This is the substance of the concept of ‘Euro-Islam’ as I imagine it.

“[By contrast,] the ‘space for Islam in Europe’ claimed by some imams is a resistance to integration and an endorsement of the existing enclaves...

“A Wahhabi, or any shari’a-based Islam is not acceptable to Europe and contradicts its structures of democracy...

“Euro-Islam requires, from pro-democracy Muslims first, that they are willing to abandon the jihadisation and shari’a-isation of Islam and become receptive to the idea of a civil Islam, in the form of Euro-Islam.

“Euro-Islam is based on the Islamic legitimacy of five pillars of civil society:

“1. Democracy – not only as electoral procedure based on voting, but as a political culture of civil society.

“2. Separation between religion and politics (secularity, not to be confused with the ideology of secularism).

“3. Individual human rights.

“4. Pluralism of cultures and religions in



Cologne Carnival, Düsseldorf: The Central Council of Muslims in Germany condemned a float featuring fibreglass models of two bearded men wearing turbans and explosives belts and brandishing guns. The word 'Cliche' was printed on one of the men, while the other bore the word 'Reality'. The depiction of Islam was 'barefaced lies' and the float used 'negative images to seek attention', the Central Council's Secretary-General Aiman Mazyek told the *Westdeutsche Zeitung*

society.

"5. Tolerance, not in the Islamic understanding of treating Jews/Christians [as] monotheists [and] protected minorities/*dhimmi*, but based on equality".

Our observation of the German Muslim community suggests that Wahhabism and other *Shariah*-centric interpretations of Islam have much more limited influence in that country than in Britain. We do not believe that the preaching in a single, Arab, Wahhabi centre like the Al-Quds mosque in Hamburg – a city known for its cosmopolitan population – is characteristic of German Islam in broader terms. If anything, the diversity of Islamic entities in Hamburg (and in Berlin) contrasts distinctly with the "ghettoisation" visible in the Ruhr Valley, where mainly secular-oriented Turkish and Kurdish immigrants are concentrated in monoethnic neighbourhoods. One cannot argue, however, that radical *Shariah* activism does not exist in Germany. *Milli Gazete*, a periodical allegedly published by *Milli Goruŝ* – an affiliation the organisation disclaims¹¹⁵ – stated in August 2001, "a religious Muslim is also at the same time an

advocate for Sharia. The state, the media, the courts have no right to intervene. The allegiance of a Muslim to Sharia cannot be questioned".¹¹⁶ To further emphasise, the accession to power of AKP in Turkey and the extension of its influence in Germany make such rhetoric a challenge to the present situation.

The Historical Background: Emergence of *Shariah* as an Issue in Germany

German media discussion of *Shariah* is far inferior in volume, variety of issues, or urgency to that recorded and observed in Britain.

Early in 2001, the respected daily *Suddeutsche Zeitung*¹¹⁷ published a survey article on Islam in Germany. The newspaper pointed out that Islamic observance had hitherto been mainly restricted to "backroom mosques", operating in uncontrolled (and often unmarked) residential and commercial properties, but that a wave of major mosque construction had begun in Germany. Building of large structures elicited numerous questions about *Shariah* matters, including the propriety of erecting a graveyard in the vicinity of a supermarket, and the loudspeaker amplification of the call to prayer. But *Suddeutsche Zeitung* also noted separatist tendencies and apparent resistance to integration, in the failure of DİTİB to educate mosque functionaries in the German language. The newspaper argued that DİTİB had made consciousness of Turkish identity equal in priority to religion, and thereby impeded integration, that DİTİB clerics typically returned to Turkey after a short tour in Germany during which they acquired little understanding of German society, that the content of sermons was seldom disclosed to the broader public, and that women rarely attended mosque services or related activities.

Interviewed by *Suddeutsche Zeitung*, Reiner Albert, a German political scientist who worked in an integration project at the Yavuz Sultan Selim mosque in Mannheim, blamed the leaders of the mosque for reinforcing separation, promoting fundamentalism, and submitting to foreign control from Turkey. He attempted to

establish classes on Islam in German, but said he was insulted and ostracised.

In 2005, the Christian Democratic politician Kristina Kohler called on Muslims in Germany to abandon *Shariah*. As reported in the daily *Frankfurter Rundschau*,¹¹⁸ Bundestag deputy Kohler spoke in Wiesbaden, and criticised *Shariah* as incompatible with democracy, and discriminatory against women and non-Muslims. She (incorrectly) described *Shariah* as an invariant form of jurisprudence, in contrast with laws that are changeable by secular courts, and said that Muslim immigrants must abandon any attachment to its superior validity. She further called for requirements to be imposed on immigrants including pledges of loyalty to the German constitution, acceptance of separation of religion and the state, and respect for human rights and the established culture in Germany.

We would be remiss in failing to point out that barriers to integration or assimilation of German Muslims are not restricted to the Muslim side. Germany long resisted abolition of the status of immigrant Muslims as “guest workers” (*gästarbeiter*) excluded from naturalisation as German citizens. The majority of Turkish and Kurdish Muslims who have migrated to Germany currently lack German citizenship. This phenomenon contributes to the dependence of the German authorities on DİTİB as an intermediary in dealing with the Turkish Sunnis.¹¹⁹

Even Alevis, being typically secular and often avid to become as a German as possible, state their conviction that Germans in their majority do not wish to allow eligibility for full membership as citizens of the national community to Muslims. This outlook extends to those born in Germany, who have only spoken German throughout their lives, and who refer to themselves as among “we Germans”. Such an attitude contrasts with the demonstrable pressure by British and French non-Muslims to gain acceptance from Muslims for citizenship, notwithstanding the persistence of economic discrimination against Muslims in both the latter countries.



German
Chancellor
Angela Merkel
and Turkish
Prime Minister
Recep Tayyip
Erdogan

The CIP Survey of *Shariah* Agitation in Germany

The Centre for Islamic Pluralism carried out its field survey of *Shariah* agitation and attitudes toward it in German Muslim communities in July 2008. CIP investigators Stephen Schwartz and Kamal Hasani investigated *Shariah* sentiment in the main German Muslim communities with the cooperation of Alevi community activists Ali and Veli Sirin, who founded and now direct a CIP group in Germany, based in the Ruhr Valley. Interviews included extensive meetings and discussions in Duisburg, Köln, Hamm, Aachen, Berlin, and Hamburg. Interviewees included, as in Britain, mosque representatives, spiritual *shaykhs* (*pirs*), social workers, and rank-and-file mosque attendees.

(1) Family/schooling

Germany has fewer Islamic schools than Britain; for economic and political reasons, the majority of Muslim children are educated in state schools. The best known Islamic educational institutions are the *Förderverein der Islamischen Grundschule* in Berlin [www.islamische-grundschule.de] and the *König-Fahd-Akademie Bonn*, the latter supported by Saudi Arabia. An important difference between the pedagogy of the Islamic communities in Britain and Germany is that many subcontinental immigrants to the former country have been educated in *medresas* or are only semi-literate, and frequently exercise the option of sending their children back to Pakistan, India, or Bangladesh for schooling, while Turkish and Bosnian Muslims, who make up three-quarters of the German Muslim population, have generally been educated in state,

secularist institutions in their own countries, which have left them with a notably higher level of literacy.

While Bosnians may send their children back to their native country for schooling in a small network of Islamic primary schools and high schools, religiously inclined Turkish Muslims only possess the option of application to the Turkish *imam-hatip* secondary schools, which train Sunni clerics. Kurdish Muslims living in Germany may suffer past exclusion from or have boycotted schools in Turkey, where instruction in Kurdish is banned. In addition, Kurdish has never been linguistically normalised and possesses at least three main dialects, one of which, Zaza, is widely spoken in Germany and is the basis for a trend among Zazas to define themselves as a separate ethnicity. Zazas are about 50 percent Alevis. Thus, Kurdish Muslims in Germany possess an even stronger incentive than ethnic Turks to seek education in German state schools for their children.

Germany currently maintains religious instruction in state schools, with a choice of curricula and regular, designated class time devoted to either the Catholic or Protestant sects, Orthodox Christianity, Judaism, or ethics classes for nonreligious students. Attendance at such classes is optional according to the student's decision and choice among the available curricula. In addition, all German students are taught about religions in general, including Islam.

While Muslim parents favor an Islamic option in the dedicated religion/ethics class time in the German state schools, its adoption has not become universal. One of several obstacles to such a goal is the involvement in curricula of *Diyanet* and DİTİB, which pays teachers trained in Turkey to deliver religious instruction in the state schools of Niedersachsen, Bayern, and Baden-Württemberg. Alevis are concerned that religion/ethics classes in state schools, if they include an Islamic option, should also provide an opportunity for Alevi religious instruction, as they presently do in five German states. Mounir Azzaoui, an Arab representative of the Bilal



King Fahd-Academy in Bonn-Bad Godesberg

Mosque and Islamic Centre of Aachen, argued when we interviewed him that inclusion of Islam as an option in the state religion/ethics classes favors integration. The Aachen mosque, currently with 3,000 members, was built in 1963 and was historically associated with the Syrian Muslim Brotherhood; its founders were an adherent of the Syrian MB, Eesam Al-Attar, along with an Iranian, Abdoldjavad Falaturi. Al-Attar broke with the MB because of its justification of violence, and Falaturi left the Aachen mosque. But our interviewee, Azzaoui, said the mosque is still viewed by media and federal authorities as a Brotherhood facility. Azzaoui is a member of the Central Council of German Muslims [*Zentralrat der Muslime in Deutschland – ZMD*], which includes 400 non-Turkish mosques, and is considered influenced by Saudi Arabia.¹²⁰

Azzaoui noted that Germany had experienced a debate over permission for Muslim girls to wear *hijab*, but that no federal or general intervention had been proposed to deal with the situation; headscarves are only banned for women teachers. German courts have ruled that responsibility for regulation of religious activities belongs to the *Länder* (federal units equivalent to U.S. states). He also stated that some Muslim parents object to sex education classes and mixed-gender swimming instruction, in a manner similar to that reflected in the proposals of the Muslim Council of Britain (described above in *Case Study: Britain*), as well as participation of Muslim children in school trips.



Fethullah Gülen

In addition, many German Turkish children now attend afternoon religious classes outside the state school system. The “soft Islamist” mass movement led by Fethullah Gülen, a Turkish imam now living in America, operates such afternoon schools. Gülen’s supporters have set up schools at multiple educational levels throughout the Muslim world. Some German Muslim children also study at “Nurcu schools” based on the teaching of the modernist Sufi Said Nursi (1877-1960), paralleling an independent system in Turkey.

Yilmaz Kahraman is president of the Alevi Youth Movement in the state of Nordrhein-Westfalen, representing 100,000 members in 34 communities in the state, located in the Ruhr, the main area of Alevi residence because of historic immigration for industrial employment. Kahraman informed us that he had worked for three months in a Gülen school in Duisburg, a major Alevi centre in Germany, and was paid nine euros for each 45-minute teaching session. Kahraman said about 200 students attended the Gülen classes, which tutored them in German, science, and mathematics. He said most of the students did not speak German well and were unfamiliar with the German alphabet, which differs from the Turkish Latin alphabet introduced by Mustafa Kemal. He ascribed these failings to recent immigration of the children from Turkey.



Courtyard of the PakTurk school in Karachi, part of a global network of schools established by followers of Gülen
© Carolyn Drake

He also stated that he had been dismissed from teaching at the school over a *Shariah* issue: his wearing of Western-style shorts.

Kahraman described two Nurcu schools in Duisburg, and said that the Nurcu movement seeks to build a larger institution in the city. The Nurcu schools offer one to two year residencies, including Arabic language lessons, which are rare in Turkish schools.

The Iranian-funded Shia Imam Ali Mosque and Islamic Centre in Hamburg (*Islamische Zentrum Hamburg – IZH*), founded in 1953, with its building completed in 1963,¹²¹ has been described by outside monitors as “a hub of Shiism in Europe that has distributed the anti-Israeli statements of President Ahmadinejad” while promoting Hezbollah in Lebanon. It is therefore considered by some to be a radical, if not a jihadist element, in the panorama of German Islam.¹²² IZH has, however, also held high-profile meetings with local Jewish leaders, Christian representatives, European Union officials, and the Dalai Lama. IZH describes itself as the “most important” Shia mosque in Europe, but has been criticised by Shia observers for catering exclusively to Iranians. The latter, with 35,000 members, are a larger Muslim community in Hamburg than Turks, Kurds, or Arabs.

IZH has been directed by two of the most prominent figures in the recent history of Iranian



Islamic Centre, Hamburg (IZM)

religious affairs. In 1965-70 it was managed by Ayatollah Mohammad Beheshti, an extremely charismatic and popular cleric assassinated in Tehran in 1981, when 70 leading members of the Iranian regime died in a bomb attack by radical leftists. A student of Allameh Tabatabaei, an outstanding modern Shia theologian, Beheshti became a major figure in the Iranian Islamic Revolution, and head of the country's judicial system. In Hamburg, he was a mentor to Hojjatolislam Seyyed Mohammad Khatami, who headed the IZH from 1978 to 1980 and was reformist president of Iran from 1997 to 2005.

IZH distributes handbooks with guidelines on how to teach about Islam in general classes on religions, in German state schools. This documentation is aimed at establishing a standard for instruction about Islam, rather than a curriculum for an Islamic option in religion/ethics classes.

The handbooks distributed by IZH, *Muslim Thoughts for Teachers and Textbook Authors* (hereinafter *Muslim Thoughts*) and *A Guide to the Presentation of Islam in School Textbooks*,¹²³ were both written by Abdoldjavad Falaturi, the Iranian formerly associated with the Bilal Mosque and Islamic Centre in Aachen. (*A Guide to the Presentation of Islam in School Textbooks* was coauthored by Udo Tworuschka). Falaturi had moved his Cologne Islamic Academy, which he had founded in 1978, to Hamburg in 1995, and after his unexpected death in 1995, the Academy was merged with IZH. Falaturi's texts are notable for their reasonable idiom and historical accuracy. For example, in *Muslim Thoughts* we find the following comment

under the heading "Relationship Between Muslims, Jews and Christians At [the] Cultural Level": "The spread of Muslim science to the Christian West (particularly Sicily and Andalusia) would not have taken place without the intervention of Jewish merchants. The scientific encounter of the different high cultures was characterised by mutual adaptations and further development. The exchange between Jews and Muslims in the area of religious teaching and law was more intensive than between Christianity and Islam".

Falaturi's *Muslim Thoughts* presents a compendium of clarifying definitions of the basic themes discussed in any school curriculum on Islam, from God to interreligious dialogue. *A Guide to the Presentation of Islam in School Textbooks* addresses those matters that Muslims most often complain are distorted in public instruction, including the definition of Islam and discussion of Muslim missionisation and fundamentalism. In the realm of *Shariah*, *A Guide* condemns as "incorrect", the following:

"[J]udging the Shari'ah on the basis of a narrow understanding... to equate it with an 'Islamic lawbook', and furthermore to take into consideration only its criminal law aspects; to describe the Shari'ah as a whole in a negative way and as medieval; and even to demand its abolition.

"To ignore the many-sided nature of the Shari'ah, as well as its complexity, and also to overlook the opportunity it gives people to fashion their own lives freely and in accordance with the age in which they live.

"To ignore the continuing concern of Islamic scholars to mobilise the inner power of Islamic jurisprudence, in order to do justice to the changes in society in the Islamic world in accordance with Islamic principles; or even to demand the one-sided adoption of Western legal standards; this applies particularly to the areas of family law, criminal law, business law and public law".

A Guide further states, perhaps ominously, "Nowadays in the whole of the

Islamic world... there is a tendency to interpret the phraseology in the spirit of the age and to prevent the application of harsh punishments. This is the case even in those countries that have applied them in recent times, less out of Islamic conviction than for political reasons”.

In all cases, mainly because of economic disadvantage, the German debate on education of Muslim children has concentrated on introduction of religious instruction in state schools rather than establishment of separate religious schools. The probability of complete separation of religion from education does not exist in Germany.

As a matter of private life, German law from 1995 to 2002 presented a problem for Muslims in its treatment of the dietary issue of *halal* slaughtering of meat. Butchery according to religious rules in Islam resembles the canon of *kashrut* in Judaism, except that invocation of God is continuous throughout Islamic killing of animals. *Qur'an* specifies that Muslims are permitted to eat food prepared by Jews, given the Jewish ban on pork. In 1995, a German court banned *halal* slaughtering because it did not specify the stunning of animals before they were killed, as mandated by German law. The only exemption was religious, and the court had determined that consumption of meat slaughtered according to religious rules was not obligatory for Muslims. German Muslims then imported *halal* meat from neighbouring countries. In 2002, however, following a civil complaint by an ethnic Turkish butcher, the German constitutional court struck down the ruling as an undue interference with the right of butchers to exercise their profession.¹²⁴

(2) Institutionalisation of *Shariah* by non-Muslim governments (“Parallel *Shariah*”)

There have been no demands for or significant initiatives in the direction of institutionalised *Shariah* in Germany, except for the acceptance of DİTİB as an informal partner by the state. DİTİB and *Milli Gorus* are mere “religious associations” under German law, while the Alevis are

recognised as a “religious community”. None of the latter three has official standing as a consultative body to government. Falaturi’s work, composed at the beginning of the 1990s, may be described as traditionalist and resistant to full assimilation of Muslims into Western culture, as might be expected from an Iranian. But nowhere does it suggest the adoption or establishment of *Shariah* as a parallel legal system governing Muslim conduct in the West.

In 2006, the *Deutsche-Islam Konferenz* or German Conference on Islam was established as an institution of 15 Muslim members and 15 government representatives, to facilitate official consultations. It has been criticised for seeking political solutions to the problems of Islam in Germany when, according to our interviewee Mounir Azzaoui, it should have been exclusively concerned with religious problems, and left political issues to civil society. In 2007, a new body, the *Koordinationsrat der Muslime* or Coordination Council of Muslims in Germany (KRM) was launched, bringing together DİTİB, *Milli Gorus* (operating through an *Islamrat* or Islam Council), ZMD, and VIK (*Süleymancilar*). The weekly newsmagazine *Der Spiegel* described the motive for KRM’s founding as follows:¹²⁵ “Henry Kissinger once famously quipped: ‘Who do I call if I want to call Europe?’ The German government has long had the same problem when it came to pursuing dialogue with its own Muslim community: Who to call? Now the four leading groups representing Muslims in Germany have banded together so that, at last, the government in Berlin can call that elusive phone number”. Unfortunately, however, Alevi participation is absent from KRM.

Late in 2007, a family court judge in Frankfurt caused a sensation when she (unnamed in media according to German practice) ruled that *Qur'an* supported the right of husbands to beat their wives.¹²⁶ The opinion was delivered in a case brought by a Moroccan-born woman against her Moroccan-born husband.

The family court judge held that issuance of a protective order would be sufficient relief for



Milli Goruş ally Necmettin Erbakan

the plaintiff, who withdrew an earlier demand for a divorce. An outcry against the opinion followed, from all German political parties of the right and left, as well as ZMD. The latter stated that legal decisions should conform to the German constitution rather than *Qur'an*, and that mistreatment is a basis for divorce in Islam. After widespread debate on the case, the family judge was threatened with professional sanctions.

In July 2008, another controversy began when German authorities announced that a new marriage law, to take effect at the beginning of 2009, would permit religious weddings to be solemnised without civil registration.¹²⁷ But marriages in churches and mosques, if not registered civilly, would exclude the parties from recourse to the courts for divorce, rights of inheritance, and other civil remedies – precisely the negative situation of Muslim women in the UK who, having been married only by *nikah* in Pakistan, cannot obtain civil divorces in Britain and are lured to *Shariah* tribunals. Our Aachen interviewee, Mounir Azzaoui, said, “Nobody asked the Muslims if we wanted this change in the law. Nobody consulted with us. They simply did it, and now we are trying to figure out how to respond. We don’t want such problems in our community”. Azzaoui further stated that the proposed legal change had been introduced because no penalty for unregistered marriages had

ever been established, and it was therefore easy for politicians to introduce a new, more lax standard.

The persistence of these problems was underscored in late 2008 when a politician representing the Free Democratic Party, Georg Barfuß, opined that *Shariah* could be established in his home state of Bavaria, if compatible with the Constitution.¹²⁸ He specified that personal areas of *Shariah* such as prayer, the *hajj* pilgrimage, and fasting are areas subject to Muslim religious law that would not be problematical, and affirmed the right of Muslims to construct mosques unhindered. Barfuß did not seem aware of German Alevi criticism of the institutionalisation of Sunni standards for prayer and fasting and *Diyanet* financing of mosques in the Turkish diaspora.

In all these instances, as with the commentaries by Archbishop Rowan Williams and Lord Chief Justice, Baron Phillips in Britain, non-Muslim public figures seemed motivated by ignorance and a patronising attitude in “offering” Muslims a *Shariah* the believers themselves did not necessarily or uniformly desire.

(3) Criminal aspects

Criminal activity in Germany, according to non-Muslim public opinion, involves numerous Turks and other Muslims, including Albanians and Moroccans. Aside from the conspiratorial activities of the September 11 terrorists in Hamburg, and sporadic recruitment of jihadists, some to fight outside Germany, little crime involving Muslims, aside from so-called “honour” murder, as described in the succeeding section of *Case Study: Germany*, has to do with religion or community customs.

One exceptional case is that of the *Kalifatstaat* (Caliphate State) or “Kaplan conspiracy”, based in Köln. The “Kaplan conspiracy” was banned in 2001. It originated among German Turks and has been reported to include some 800 members. The group openly called for the overthrow of democratic institutions in Germany and Turkey, much like the Supporters of *Shariah* led by Abu Hamza in Britain. Its most



Arrest of Metin Kaplan, the “Caliph of Köln”

notorious leader, Metin Kaplan, the “Caliph of Köln”, had come to Germany from Turkey in 1983, seeking asylum. In 1995 he took over the *Kalifatstaat* group from his predecessor, one Ibrahim Sofu. Kaplan called for Sofu’s death, and Sofu was slain in 1997. Kaplan was convicted in Germany of incitement to murder in 2000, and, after lifting of his asylee status and his extradition by Germany to his native country, was found guilty of treason to Turkey in 2004, followed by a third trial for attempted subversion of the Turkish constitutional order, which resulted in a prison sentence for life in 2005. The verdict was overturned by a Turkish appeals court in 2006, but Kaplan was retried.¹²⁹ The “Kaplan conspiracy” has been the most notable example of *Shariah*-driven criminal behavior in Germany.

Information on radical Islamist infiltration of German prisons is lacking.

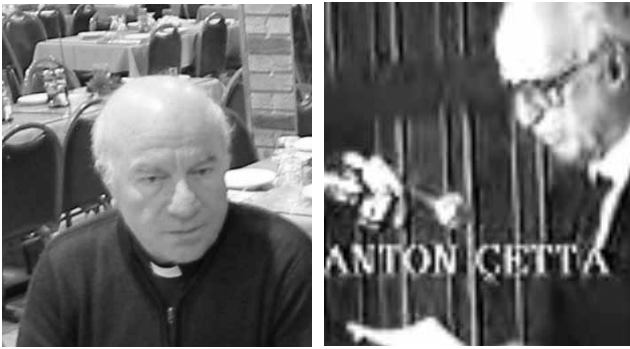
(4) Approach to Women

So-called “honour” murder has been the main topic for discussion of Muslim women’s rights in Germany. Given that Turkish Islam in Germany is dominated by *Diyanet* and DİTİB, which are historically committed to a modernising, secular, and Sufi interpretation of Sunnism, as well as by *Alevilik*, in which these values are even more pronounced, it is among these communities, and those in the Netherlands, more than elsewhere in Europe, that arguments identifying such brutalising customs as phenomena distinct from Islamic observance and religiosity have wide currency.

A visit to the Duisburg mosque, built by DİTİB and opened in 2008, and currently the largest mosque in Germany, showed that literature on sale to congregants was almost totally limited to Sufi and similar devotional material of a positive nature, and that Wahhabi-style beards and costumes were absent. It appears unarguable, however, that the DİTİB clergy in Germany and the Netherlands have failed to intervene in such a way that moderate Islamic standards in family relations would alleviate such persistent social pathologies as so-called “honour” murder. Another factor in the frequency of crimes against women in the German Muslim community may be the origin of many immigrants in a rural environment where the state-mandated secularism and official interpretation of Islam established in Turkish cities, as well as Alevi traditions (although they also are mainly rural), have failed to penetrate. The general question of urban-rural dissonance in Turkey is visible in the confrontation of the AKP, which is considered a rural party, with the secularist social and military establishment.

The first major family-relations case to gain public attention in Germany involved a Balkan, rather than a Turkish or Kurdish Muslim family. At the end of 2003, in the city of Tübingen, Latif Z., 42, further unidentified according to German law, was charged with the strangling in his home of Ulerika, 16 and the oldest of four daughters, whose corpse was found dumped in a quarry pond.¹³⁰ The family were Albanian Muslim political refugees from Kosova who settled in Germany in 1989 after the onset of Serbian repression in the territory and the arrest of Kosovar protestors, including the accused. The alleged cause of the death was the daughter’s romantic liaison with Sead, a youth with an Albanian father and Bosnian Muslim mother.

As we noted in *Case Study: Britain*, so-called “honour” murder is often based on resentment of betrothals or marriages involving partners outside Islam. The same may be true of “disfavoured” ethnic groups; or, in Saudi Arabia, “inappropriate” tribal membership. Northern



Dom Lush Gjergji and Anton Çetta

Albanians have maintained a code of customary law, their own *Kanun* based on honour, for many generations, and have developed a strong sense of the propriety of ethnically-endogamous love and marriage relationships. Although marriage between Muslims and Serbs became common in Bosnia-Herzegovina under the former Yugoslav regime, relationships between Albanians and Slavs were and remain almost unknown in Kosova and other Albanian-speaking areas. An Albanian interviewee commented that “in the old generation the world was seen as divided between Albanians and enemies, and the latter category, often labelled as Slav, included any foreigners, even Latin Americans and Chinese”.

Additionally, Albanians view Muslim Slavs, such as Bosnians, in terms of their linguistic association with the other Slavic nations rather than a common membership in the Islamic *umma*. Albanians are known to opine that “the worst Slav is a Muslim Slav”. This sentiment reflects not only rivalries under Ottoman rule, but resentment at perceived favoritism to the Bosnians and other Muslim Slavs in Titoite Yugoslavia, including abuse of Albanian Muslims by Bosnian clerics and the use of Bosnian Muslim police to suppress Albanian demonstrations in the last decades of Yugoslav Communism. In the sole common exception to this ethnocentric pattern, while Albanian nationalism in the late 19th and early 20th century was articulate in its opposition to Ottoman power, Albanians do intermarry with Turkish-speaking inhabitants of Kosova and Macedonia, where some urban-dwelling Albanians (*qytetars*)

continue to identify themselves as Turkish rather than Albanian, and speak archaic dialects of Turkish. A sense of Albanian affiliation with Turks was exploited in the mid-20th century to organise the involuntary Yugoslav deportation of some tens of thousands of Albanians to Turkey, where Albanians remain an important émigré community today.

The Albanian *Kanun* has been defined by a contributor to our study, Daut Dauti, as “an ancient unwritten code of justice and governance that functioned as the *de facto* Albanian Constitution for centuries”.¹³¹ The *Kanun* was compiled and issued in print by a Franciscan priest, Father Shtjefën Kryeziu Gjeçovi (1874-1929).¹³² It comprises an extensive and elaborate system for the resolution of grievances over honour, apparently developed by the Catholic highlanders of northern Albania as an alternative to justice dispensed in Ottoman *Shariah* courts or the tribunals of the Christian *millet* or minority, which were controlled by Orthodox Christian ecclesiastics without Catholic representation.

The ideology of Albanian honour is all-pervasive and, until recently, constituted a primary element of enculturation. In the late 1980s blood feuds (*gjakmarrja*) over honour, administered under the *Kanun*, were mainly abolished in Kosova through a dedicated campaign by two Catholic figures, Dom Lush Gjergji and Anton Çetta, who together brought about the resolution of more than 1,200 such conflicts. In Northern Albania, however, it is said today that some 40,000 men cannot leave their homes because of their vulnerability in blood feuds. Under the traditional *Kanun*, men, rather than women, were the main targets of violence, but young women may also become victims.

In the 19th century, bride price, handed over in arranged marriages, was set at the amount to be paid if a woman were killed. According to the *Kanun* a woman who rejects an arranged marriage may be killed with the complicity of her parents; wives may be killed for adultery and “betrayal of hospitality” if the two acts occur together. Wives are commanded to maintain the

honour of their husbands. But the *Kanun* is contradictory on women's rights; young brides are required by it to submit to arranged marriages, but are barred from marriage to various classes of individuals with whom they have endogamous tribal relations, and girls who are supported in their refusal of an arranged marriage by their parents are expected to remain unmarried. Young women may not be abducted and married, and widows cannot be compelled to accept marriages against their free will or vacate their dead husbands' property. Wives may not be beaten or otherwise mistreated for offences such as theft from a husband, although the husband may leave her. If a wife is abandoned with a nursing child, the husband must leave the child in her custody, while providing shelter, clothing, shoes, and food for the abandoned wife; but a mother considered "vexatious" may be expelled from her home by her son. A major principle of *Kanun* is that a married woman's parents are responsible for her honour, rather than the woman herself. Husbands may beat their wives but if they draw blood, they must explain their conduct to the wife's family. Yet men are strictly barred from taking women as concubines, on pain of expulsion of the men from the community and destruction of their property. The low esteem held for women in the *Kanun* is summarised in the clause, "A woman is a sack, made to endure".¹³³

During the Communist period in Albania as well as in the Albanian-speaking Yugoslav lands (Kosova, Western Macedonia, South Serbia, and western Montenegro), arranged marriages declined precipitously, and most Albanian marriages today, although they may involve contractual negotiations between families, are love matches. Still, older customs may prevail in *diaspora* communities. In this regard it should be noted that Albanian-speaking Christian women living in Calabria and Sicily, descended from refugees who fled to the Italian peninsula before the Turkish advance in the 15th century, are generally safe from the scourge of kidnapping and forced

marriage endemic among Italian Christians in those areas, because marriage by abduction remains so significant a violation of Albanian customary law.

In the 2003 Tübingen case, the accused Latif Z. was described in news reporting as a nationalist "fanatic" who resented his wife and daughters' superior acquisition of German, which he never learned to speak adequately. While working as a heating technician, he set up a private café in his basement, where Albanocentric views, as well as comments reinforcing the ideology of honour, were commonplace. But his rage at his wife, as well as his daughter, who got her navel pierced and dyed her hair blonde, festered.

Eventually, the friends who visited his café deserted him, and the night before the murder of his daughter he was alone. In the period before his trial, the defendant blamed his wife, rather than his daughter, for causing trouble in his household. His wife, Hanife Gashi, had provided the daughter and her boyfriend with money for a vacation in Kosova. Hanife Gashi also provided an example of the abuse of women's rights under color of customs; she and her sister had been married without their choice to Latif and his brother.

Latif Z. was sentenced to life imprisonment.¹³⁴ During the trial, it was disclosed that the father had repeatedly beaten his daughter. The defendant repudiated a confession, and the defence lawyer argued for a charge of manslaughter rather than murder. In an unanticipated outcome, the German judge rejected characterisation of the crime as a so-called "honour" murder, and stated that the convicted acted from "base motives". At the time, however, acknowledgement of so-called "honour" murder was rare in Germany.

Nothing in this family tragedy has to do with Islam as a faith, and a Bosnian consultant in our study condemned Albanian customary law as an "un-Islamic" expression of local particularism alien to the universalist spirit of Islam, an argument supported by the greater prevalence of

Kanun among Catholics. But for this and other reasons the Islamic community in which Latif Z resided did not provide counseling or other services or incentives to integration into the German social system that might have prevented the crime from taking place.

In 2005, the German female lawyer Seyran Ateş, 41, who was born in Turkey but forced to leave her family so she could “live as a German”, called for greater severity in German law governing so-called “honour” murder.¹³⁵ At that point, such cases were treated as “second degree murders”, because, according to journalist Jan Feddersen, who interviewed Ateş, the pretext of “cultural imprinting” had been introduced into the legal process. Ateş replied sarcastically, “Thanks a lot for this outstandingly impressive signal to Turkish women in Germany. Honour killing has nothing to do with cultural imprinting – as if one couldn’t change that. Honour killing of women is typically premeditated and organised. It is not instinctive... It is a severe, lethal punishment. And that is how this crime should be punished”.

Ateş specifically denounced ethnologists who, “well-disposed toward Muslims, say that honour killings are connected not with Islam, but with patriarchal social conditions”. Ateş commented, “They cannot be separated. Only multi-culti fanatics are interested in this distinction – and use it to distract from other problems”. She criticised members of the Green party and leftists for their failure to protect women, and demanded stronger legal restrictions on arranged marriages. Although affirming that she is a religious believer, in response to charges that she was a troublemaker worthy of condemnation, she described Turkish Muslim women in Germany as “sometimes not even knowing where they are, locked up... forbidden to leave the house... slaves offered in the Muslim marriage market”.

She further assailed Muslim parents who object to participation of their daughters in sex-education classes in schools, noting that only girls are excluded from such classes, on the

pretext of chastity. She disclosed that anal sex had become a common method of contraception because of the absence of adequate sex education.

The cited interview with Ateş took place three weeks after the slaying of Hatun Sürücü, 23, a German Turkish woman, by her three brothers. Sürücü was killed with three gunshots at a bus stop in Berlin, on February 7, 2005. The pretext was the victim’s desire to live in a German way. The Sürücü case led to a demonstration of 1,000 people against violence against women, beginning in the Berlin neighbourhood of Neukölln, and brought together German non-Muslim as well as Muslim women, along with representatives of leftist parties and human rights groups.¹³⁶

In October 2006, an Iraqi from Munich identified only as Kazim M., 36, was charged with killing his ex-wife, Sazan B., 24, having purchased a knife and can of gasoline and stabbed and set fire to her only hours after their legal separation commenced.¹³⁷ The crime was particularly atrocious, in that the defendant lay in wait for the victim while she walked in the street holding her 6-year old child by the hand. The defendant stabbed the victim 12 times in the head and upper body. As the victim crossed the street and stopped a passing car, the defendant poured gasoline over her and ignited it. The six-year old child witnessed the entire incident. During the



legal proceeding it was disclosed that the marriage had been arranged in Iraq after a half-hour meeting between the couple. A bride price of €32,000, paid to the woman's family, and some jewelry changed hands.

In this incident, as in the 2003 Tübingen case of the Albanian Latif Z., a contributing factor was the disparity in learning German between the victim and the husband. Indeed, Kazim M. required a German translator throughout his trial. Islam and *Shariah* cannot be directly implicated in a situation where learning the language of one's new home is considered an offence against honour, but, as in other such cases, Muslim authorities did not intervene in a conflict that had attracted government attention. The victim had obtained a protective order against her husband in late 2005 because of domestic violence, and was divorced one year afterward.

The defendant admitted in court his intention to kill her; he readily confessed to the act, expressed no remorse, and was described as grinning with satisfaction throughout the trial. He declared his contempt for the German legal system and bragged that he had been arrested after, not before, the fatal assault. He said, "I am very happy to have committed this act". The prosecutor, Peter Boie, described the crime as a so-called "honour" murder but said the defendant was deluded in his beliefs, in that no concept of honour was involved in the case and it was necessary for the German state to take a strong stand against such crimes.

In June 2008, a Moroccan-born woman, Leyla H., 23 and the daughter of immigrants with university educations, described to *Der Spiegel*

how she had fled her family at 16 to avoid a forced marriage.¹³⁸ She lived in women's shelters and attempted to establish a family with a Turkish man, but after that failed, she returned to her family. She was beaten for coming home late and being seen with strangers, threatened with a knife at her throat, and sent briefly to Morocco where she was kept in isolation. She was returned to Germany and told by her family that she must accept marriage with an immigrant from rural Morocco, but escaped again within hours of the wedding, after having had makeup applied for the ceremony.

Leyla H. took refuge with a German relief organisation, *Hatun und Can*, founded after the death of Hatun Sürücü to assist women in such cases and advertised on German television. She expressed fear that further contact with her family would lead to her death in short order. She was critical of her own naivete in believing that her family would eventually understand and accept her motive in fleeing. Her flight took place only two weeks after the slaying of a 16-year old Afghan woman, Morsal Obeidi, in Hamburg.¹³⁹ Obeidi was stabbed to death 20 times by her brother Ahmad-Sobair Obeidi, 23, a bodybuilder, in a parking lot. The crime took place after repeated beatings by her father and sister as well as her brother, who were middle-class immigrants and had lived in Germany for 13 years. It is interesting to note that her father was a former air force pilot serving the Soviet puppet regime in Afghanistan, who had fled first to the ex-Soviet Union, when the Moscow-backed Kabul regime fell, and then migrated to Germany. Her brother surrendered to police 12 hours after the crime, having been tracked down. He had a



Memorials to Hatun Aynur Sürücü



long history of assaults, including complaints by Morsal, who had refused to wear *hijab* after reaching puberty, and, as was later revealed, had also undergone an attempt to impose a forced marriage on her. She had repeatedly fled the family but returned to it and to new attacks. Family mourners came from the Netherlands as well as Germany.

Questioned as to whether she believed such crimes should be called “honour killings”, Leyla H. replied articulately, “A woman killing a man who rapes her daughter may be described as a defence of honour, but brothers killing their sisters for disobeying them has nothing to do with honour”. Ahmad Obeidi was convicted of murder¹⁴⁰ in February 2009 and sentenced to life imprisonment; the killer and his family committed violent outbursts in the courtroom, with Obeidi cursing the judge. In a remarkable outcome, the usually-conservative German weekly *Der Spiegel* suggested that the crime was not a so-called “honour” murder, citing aggravated “sibling rivalry”. The revelation that the killer’s father was a “Soviet Afghan” refugee implied that the Obeidi family was liberated from “honour” prejudices. Still, when the judge in the case commented that Obeidi would likely have been found guilty in Kabul, the slayer shouted that he would be a free man in Kabul.

Almost simultaneously with publicity about the fears of Leyla H. regarding a so-called “honour” murder, two such crimes were attempted in Berlin, producing serious injuries to the victims.¹⁴¹ A Pakistani man, 57, hit his ex-wife, who had been separated from him for three years, with a car. Within hours, a 33-year old Tunisian immigrant stabbed his 40-year old German ex-wife. In both cases, the women had obtained protective orders, which proved of limited utility.

On June 11, 2008, the Berlin municipality of Tempelhof unveiled a plaque commemorating the death of Hatun Sürücü – more than three years after she was slain.¹⁴² The plaque reads, in German and Turkish, that Hatun Sürücü was killed because “she did not submit to compulsion

and suppression by her family, but led a life according to her own free will”. The ethnic Turkish victim Hatun Sürücü has become a symbol of the overall problem of so-called “honour” murder, which, as may be seen, knows no ethnic limits, involving in this case study, aggressors including an Albanian, Turks, Iraqis, a Moroccan, an Afghan, a Pakistani, and a Tunisian.

And the series of such crimes has not abated. In July 2008, while the CIP team was visiting Germany, an attempted murder of a 17-year old Iraqi girl by her 21-year old brother in Trier led to removal of her parents’ guardianship over her.¹⁴³ The girl was stalked by her brother and assaulted in the street with a paving stone and then kicked in the head and face, because she had left home. In this case, however, the girl’s mother and younger brother overpowered the assailant.

In August 2008, a court in Stuttgart determined that the perpetrator of a so-called “honour” murder in 2004, Özhan K., born in Germany but of Turkish ethnicity, could be deported to Turkey as soon as he completed his sentence for the crime.¹⁴⁴ Özhan K. was 18 when he stabbed the male friend of his sister to death, and was condemned to nine years in juvenile detention in 2005. He had killed the victim with 40 knife-blows, and the pretext for the crime was the fact that his sister had separated from her husband but had not been divorced. The father of the family had died and Özhan K. believed he had inherited total authority over them. The determination that he could be deported was appealed. A legal agreement between Germany and Turkey provides for such expulsion, but only if the convicted criminal shows a propensity for repetition of a crime. Özhan K. expressed remorse for his act and appealed to the court against deportation, on the basis of his birth in Germany. In a troubling development, the judge in Stuttgart declared that an appeal based on birthplace should not be entertained, because the convicted individual remained tied to a Turkish, rather than a German, way of life. Nevertheless, the appeal was referred to the higher court in the

state of Baden-Württemberg.

While so-called “honour” murder is known to be frequent among Kurdish immigrants in Europe, it should also be noted that the Zaza Kurdish-born sociologist Asiye Kaya, of the Humboldt University in Berlin, when interviewed by CIP, strongly denied that *Shariah* authorities among the Kurds, representing the conservative Shafi’i school of jurisprudence, had legitimised such crimes. Kaya defined so-called “honour murder” as a community rather than a religious problem, in which marriage serves as an institution of social control. In addition, if there is reason for hope in the panorama of life among Muslim women in Germany, it is found among the Turkish and Kurdish Alevi.

Yilmaz Kahraman, the previously mentioned Alevi Youth leader, asserted that so-called “honour” murder is markedly common among Sunni Kurds. He stated that, in contrast, during the Alevi religious ceremony or *cem*, all communal conflicts are resolved by appeal of the clerics or *dedeler*. Even fatal violence between Alevi men may be settled by payment of a fine. The anthropologist Martin Sökefeld described the Alevi system of mediation, known as *halk mahkemesi* or “the popular tribunal” as “a particular element of the initial phase of *cem* in which all participants are called to disclose conflicts and strained relationship(s) among them. Before the ritual can proceed such conflicts have to be solved and mutual consent... has to be established within the congregation”.¹⁴⁵

Forced marriage was brought to the fore of German non-Muslim attention prior to discussion of so-called “honour” murder, although the former practice has elicited less extensive or prominent commentary. In 2002, the *Stuttgarter Zeitung*¹⁴⁶ described the case of Aydan, a German Turkish girl then 19 years old, who had fled her family to avoid a forced marriage and took up residence with three other girls whose situation was similar. Aydan, echoing the sentiments of Seyran Ateş, described an environment of cultural conditioning in which many young Turkish women had no awareness of

the real character of their victimisation. Aydan commented, “As long as one lives in it, one is not aware at all how bad the whole problem is. Only when I compare it to my current life: I can come home now and can do what I want. And, especially: I no longer feel afraid”.

During her childhood in Turkey, Aydan was frequently beaten by her uncle, and she idealised immigration to Germany and the opportunity to live with her father, whose affection for her during visits to her birthplace contrasted with her ill-treatment at the hands of her father’s brothers. When she moved to Germany, her father had remarried, and, after Aydan entered puberty, he forbade her to visit her birth mother, threatening to burn her alive with gasoline. He also strictly supervised her daily activities to avoid contact with boys. An attempt at an arranged marriage in Turkey, to a male for whom Aydan felt no romantic attraction, failed because her father demanded that five years of her professional income after her graduation from school (with law as her intended course of study) should be paid to him (her male parent). She developed a relationship with a German-born Muslim relative, Sahin, but her father considered him too modern, and barred her from marrying him. Aydan ran away from home and lived for a year with Sahin, but the relationship failed and no marriage took place; she was then threatened by Sahin’s mother, who said she would tell Aydan’s father her whereabouts, and was forced to escape again.

The case of Morsal Obeidi, previously described, had also attracted the attention of German media to forced marriages. In June 2008, the leftist newspaper *die tageszeitung*¹⁴⁷ reported on a study of forced marriage in Hamburg, produced at the instance of legislators from the Christian Democratic Union, Germany’s main conservative party, and conducted by the Johann Daniel Lawaetz Stiftung, a foundation. The study was initiated in 2006, but included cases beginning in 2005. In a single year, 210 incidents of forced marriage were handled by local counseling centres. In 169 cases, the victims

themselves asked for help, while in the remainder friends, siblings, other relatives, and teachers made complaints. The study was considered incomplete, with a note that in Berlin alone, during the same period, between 200 and 300 cases were recorded.

The Hamburg study concluded that 53 of the 210 cases examined involved immigrants to Germany, while in 42 incidents young women, many still of school age, were married while travelling abroad – in so-called “holiday weddings”. In 45 cases, brides were “imported” to Germany; the Hamburg study found that these were the worst cases in terms of abuse, since the women often spoke no German and were treated as household slaves. In 39 cases foreign men had obtained forced marriages with women living in Germany. None of the women involved in the cases under examination had an independent income, although 11 percent had an occupation. Five percent of the victims in forced marriages were male. In the breakdown of ethnic origin, families of those who asked for assistance came most often from Turkey (54 percent), Afghanistan (16 percent) or Kurdistan (9 percent). The remaining cases came from South Asia, Africa, the former Yugoslavia, or the Middle East. More than 80 percent were Muslim. Hindus accounted for five percent, and Christians one percent.

In October 2008 CDU politicians in Hamburg began an official campaign to oppose forced marriage, including publication of a poster that directs young people seeking help to publicly-funded counseling centres.¹⁴⁸

NOTES

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6. Case Study: The Netherlands



Introduction

Muslims comprise between 800,000 and one million residents of the Netherlands, or seven percent in a national population of 17 million, served by 400-500 mosques. Demographically, the Netherlands has the third largest Muslim share of population in Western Europe, following France and Germany, but episodes in the first decade of the 21st century have arguably made Islam a more volatile topic in Dutch society than elsewhere in the West. Such events included the rise of the anti-immigrant politician Pim Fortuyn (1948-2002), who declared his unqualified opposition to the presence of Muslims, warned against the alleged advance of *Shariah* in the country, and who was assassinated by a non-Muslim ethnic Dutch native.

This traumatic event was followed by the

murder in Amsterdam of the film-maker Theo Van Gogh (1957-2004), a friend of Fortuyn, by a Moroccan-born extremist of Berber ethnicity, Mohammed Bouyeri. Van Gogh had directed a short film titled *Submission* with the Somali-born author and political figure Ayaan Hirsi Ali, who has publicly renounced Islam. Bouyeri was a supporter of an Egyptian movement associated with Wahhabism, *Takfir wal Hijra* (Religious Purge and Migration).

In the weeks following the killing of Van Gogh on November 2, 2004, an anti-Islam reaction more serious than any other in Europe so far occurred in the Netherlands, with 106 mosques and other Muslim establishments, as well as individuals, targeted by arson, vandalism, and threats, in apparent reprisal.¹⁴⁹ In addition, 13 Christian churches were targeted in counter-attacks.¹⁵⁰ Hirsi Ali, who received threats from Muslim extremists in the aftermath of the Van Gogh affair, has moved to the U.S.

It should be noted that while such atrocious and difficult incidents gave the impression of an Islamist siege of the Netherlands, the majority of Dutch Muslims are Surinamese (migrants from the former Dutch colony on the northern coast of South America¹⁵¹) and Turkish immigrants, whose outlook has been heterodox or secular, and that after the incidents of 2004 tensions have decreased in the country. Indeed, the Netherlands may very well prove a key “backup” country for mobilising moderate Muslims, even as the UK



Mohammed Bouyeri

remains the main frontline country against radical Islam in Western Europe. The crucial role of the Netherlands could emerge based not only on the dramatic events that have transpired there, but because it is the only Western European country with large numbers of Turkish and Kurdish Alevis as well as a significant community of *Maghrebi* Berbers/Amazigh – many of whom despise radicals and firmly oppose imposition of *Shariah*. We have examined the Alevis in *Case Study: Germany* and will analyze the situation of the Berbers/Amazigh in this and the remaining *Case Studies*.

Already in 2004, the Dutch Scientific Council for Government Policy (*Wetenschappelijke Raad voor het Regeringsbeleid* – WRR) had issued a report to the national cabinet, based on three years' research and titled *Dynamiek in islamitisch activisme (Dynamics in Islamic Activism)*, in which it criticised Dutch politicians for “scapegoating” and “repeatedly baiting” Muslims.¹⁵² The WRR recommendations may, however, be deemed by some to be excessive in their advocacy for accommodation with Muslims who are believed to be moving in a democratic direction. Among other points, WRR called for the Netherlands and the European Union to recognise and begin negotiations with the Egyptian core of the Muslim Brotherhood and the Lebanese Hezbollah movement. The tone of this debate on the Egyptian MB markedly resembled a similar and inconclusive discussion in the U.S., in which much attention was focused on the strategic turn of the MB toward electoral politics, but little analysis was dedicated to the ultimate aim of the MB, which is to establish an Islamic fundamentalist state. In a suggestion that produced no effect to date, WRR even called for the organisation of an Islamic political party or parties in the Netherlands.

In 2007, two Muslims were appointed as ministers in the Dutch cabinet, representing the social-democratic Labor Party (*Partij van der Arbeid* – PvdA): Ahmed Aboutaleb, born in Morocco and Berber/Amazigh in origin, was

named State Secretary [Minister] for Social Affairs.

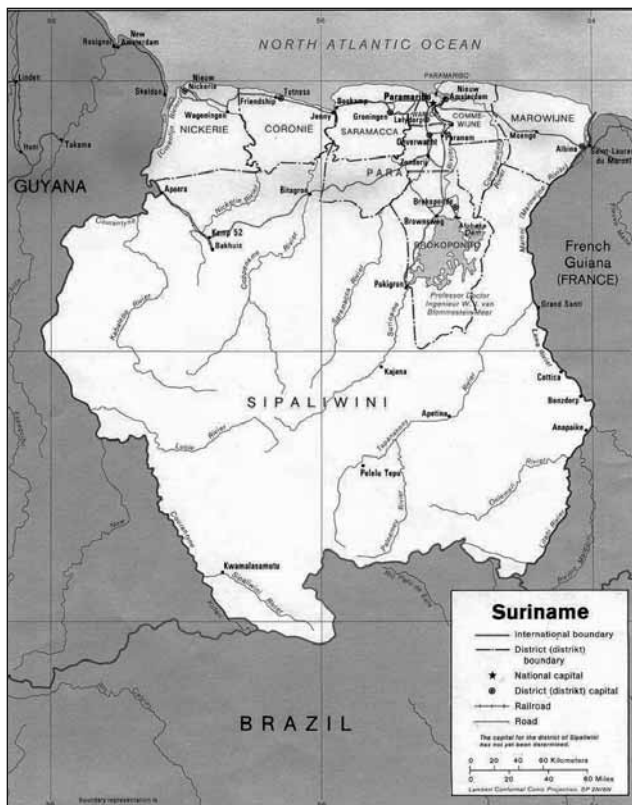
Nebahat Albayrak, a woman of Turkish origin, became State Secretary for Justice. In 2009, Ahmed Aboutaleb was installed as mayor of Rotterdam and the first Muslim mayor in the country, a



surprising outcome in *Ahmed Aboutaleb* that this port was considered a centre of anti-Islamic sentiment and even labeled a “Fortuyn city”.

It may be argued that much of the Dutch non-Muslim reaction has reflected disillusionment with the long-standing commitment of the government to a multicultural policy, which was seen to have failed because of Muslim self-segregation. Thus, while the faith of Islam is widely debated, the subtext of this controversy may have mostly to do with frustration over altruistic government policies that were ineffective or otherwise thwarted.

Prior to the main Surinamese influx during the 1970s, Turkish immigrants began settling in the Netherlands in the mid-1960s. Dutch mosques included, in 2004, of a total of 436, 52 in the Greater Amsterdam region, 36 in Greater Utrecht, 34 in the Greater Hague (Den Haag), and 57 in Greater Rotterdam (Rijnmond). The ratio of affiliation is 50 percent Turkish, 35 percent Moroccan, and 15 percent Surinamese. In Amsterdam, however, Moroccans are the leading demographic element, followed by Surinamese in second place and Turks in the third.¹⁵³ The Netherlands also has a long-existing but small community of Indonesian Muslims, who were Dutch nationals, acquainted with Dutch culture, and enjoyed better opportunities as immigrants than the more recent working-class migrants.¹⁵⁴ Many Indonesians in the Netherlands are, however, Christian. Balkan Muslims also arrived in the Netherlands, mainly beginning in the 1990s.



dissident Muslims includes a faction, known as Qadianis, that believe in the appearance of the Muslim messiah or *mahdi* in 19th century India, as Mirza Ghulam Ahmad (1835-1908). A second faction, known as Lahoris, believes the founder was a reformer, but not a *mahdi*. Lahori Ahmadis are well-represented in the Netherlands and have been active in Muslim community affairs. Ahmadis of both factions represent a paradoxical element in the Muslim panorama because they are repressed and subjected to *takfir* (excommunication from Islam) in Pakistan and barred from making pilgrimages (*hajj*) to Mecca, but at the same time they condemn common Muslim spiritual practices such as the celebration of the birthday of the Prophet Muhammad (*mawlid*) and prayer at shrines. These attitudes are shared by Ahmadis and Wahhabis. Ahmadiyya and Wahhabism were both introduced to the Netherlands by Indian Muslims from Suriname.

The Lahori faction of Ahmadis have drifted toward prescriptive Sunnism, mainly because they enjoy a superior social status in Pakistan thanks to their commitment to secular education, and have become susceptible to the lure of political power. Nonetheless, Ahmadis remain condemned by the Muslim majority because of the Qadiani belief that a *mahdi* has appeared in recent times. Shias are required to believe in the future arrival of the *mahdi* in the form of the 12th, “hidden” imam, Hasan Ibn Ali, who was born in 868 C.E. and disappeared in “occultation” at the age of five. Sunnis are

The Historical Background: Emergence of *Shariah* as an Issue in The Netherlands

Like Germany, the Netherlands must contend with the activities of the Turkish government’s *Diyanet*, which may in the future assume a more aggressive pro-*Shariah* posture in line with the ideology of the AKP, as well as *Milli Goruş* and the *Süleymancilar*. But the country also has a significant Alevi community. Indeed, *Diyanet*, which controls 140 mosques in the Netherlands, was originally more influential there than in Germany, because *Milli Goruş* and the *Süleymancilar* had taken stronger initiatives in the latter country. Still, *Milli Goruş* is considered less militant in the Netherlands than in Germany.¹⁵⁵ *Milli Goruş* in the Netherlands is divided between a more moderate wing in the north of the country, and a more extreme branch in the south, known as *Milli Goruş-Noord* and *Milli Goruş-Zuid*. Haci Karacaer, former director of *Milli Goruş-Noord*, has been expelled from its (currently uncompleted) Amsterdam mosque project.

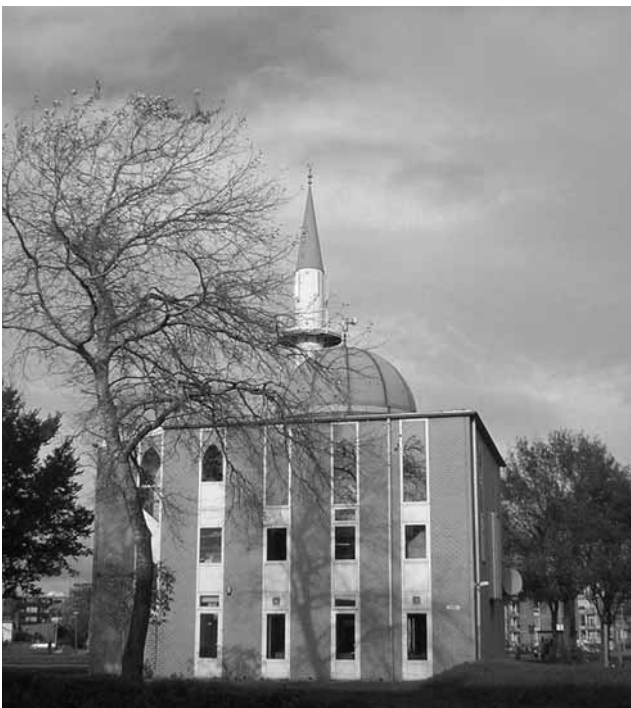
Finally, the Ahmadi community of

recommended to believe in the eventual arrival of a *mahdi* but are not required to so believe and do not identify the *mahdi* with a specific historic personage. Radical Shias predict the coming of a *mahdi* in the shorter rather than the longer perspective of history, but do not claim such a figure has lately emerged, since the coming of the *mahdi* would be accompanied by signs of the “last days”, or apocalyptic end of time.

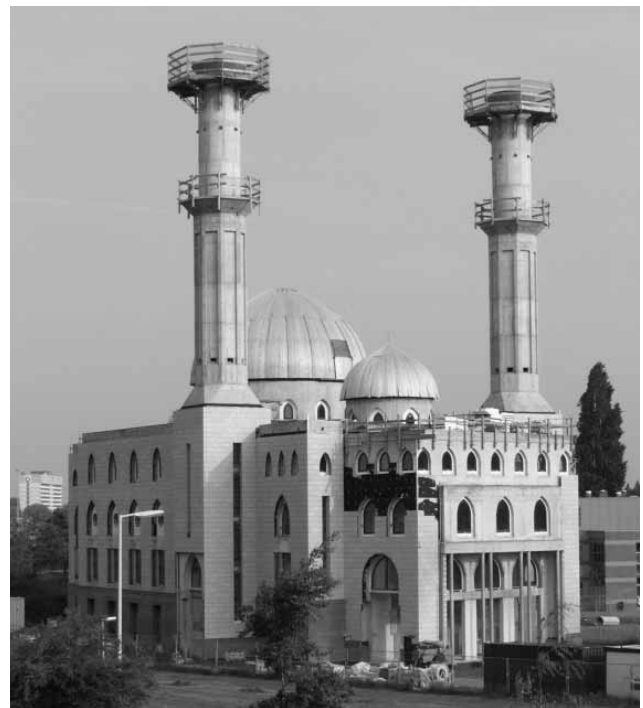
Two Dutch government agencies, the General Intelligence and Security Service (*Algemene Inlichtingen- en Veiligheidsdienst – AIVD*)¹⁵⁶ and the National Coordinator for Investigation of Terrorism (*Nationaal Coördinator Terrorismedestijding – NCTB*),¹⁵⁷ have issued authoritative reports on the appearance of Wahhabi-oriented extreme and violent interpretations of Sunni Islam in the Netherlands. These documents generally refer to Wahhabism by the more “politically-correct” term “Salafism”. They emphasise that, in the wording of the AIVD, “Muslim radicalism in the Netherlands is most successful in reaching young Dutch citizens of Moroccan origin and young members of other immigrant communities with their origins in the Middle East and Somalia, as

well as white converts”. The agency states that, from the 1980s forward, Saudi institutions and foundations established mosques in the country that “have dominated the ultra-orthodox debate within the Dutch Islamic community since the mid-1990s”.

The AIVD identifies the original centres of Saudi-financed radicalism in the Netherlands at the Al-Tawheed mosque in Amsterdam and the Al-Fourkaan mosque in Eindhoven, followed by the As-Soennah mosque in Den Haag and the Islamic Foundation for Education and Propagation of Knowledge, affiliated with a mosque in Tilburg, and known by its Dutch initials as ISOOK. According to AIVD, “Since the mid-1990s, these mosques have been under the ideological direction of Arabic-speaking preachers originally from countries like Egypt, Syria and Sudan, but educated in Saudi Arabia... or at least familiar with Saudi... religious dogmas”. The imam of the As-Soennah mosque, a Syrian named Jneid Fawaz, had distinguished himself by his violent preaching against Theo Van Gogh and Ayaan Hirsi Ali. ISOOK’s imam, Suhayb Salaam, whose father was also of Syrian origin, has preached in favour of polygamy,



Ijmuiden Mosque, North Holland



Rotterdam Mosque

marriage by *nikah* without civil registry, and the ascendancy of *Shariah*, while also inciting Muslims against Hirsi Ali.

AIVD further discerns in this milieu “the adoption of highly ritualistic patterns of behaviour – for example, wearing a ‘strict’ Islamic dress, using certain body language and observing the separation of the sexes. The group which has taken up this lifestyle is much larger than [the] hard core of ‘true’ Islamic radicals, the reason being that they find it a ‘cool’ way of life without having any deep-seated convictions”. Here we note a phenomenon visible among many young Muslims: because it is simplistic, fundamentalism appears an easy and therefore attractive form of affirmation.

AIVD has analyzed the following tactics by which radical Islamists currently pursue their aims in the Netherlands, all of which resemble *Shariah* agitation as seen in Britain:

“• Forcing people in the immediate vicinity, neighbourhood or wider Islamic community to conform to one’s own strict standards of behaviour. Women, homosexuals, the more liberally minded and suspected non-believers are most likely [to] be confronted by this tactic.

“• Forcing people in the immediate vicinity, neighbourhood or wider Islamic community to display loyalty to their own faith group alone, and sometimes to their own ethnic faith group alone.

“• Attempting to convince or intimidate people in the immediate vicinity, neighbourhood or wider Islamic community not to participate in some or all of the institutions of the democratic legal order. For example, using threats or persuasion to prevent them voting.

“• Attempting to convince or intimidate people in the immediate vicinity, neighbourhood or wider Islamic community not to work for or provide services to the institutions of the democratic legal order. For example, trying to prevent them taking up a

government job.

“• Deliberately attempting to disrupt the relationships between religious or ethnic communities, or to create other forms of social tension. For example, discouraging contact with those who hold different views and cultivating hostile thinking. This attitude is sometimes prompted by the feeling that there exists a genuine threat to the Islamic community”.

The NCTB, similarly, observes that the emerging radical Islamist “culture often deviates from the traditional culture of Dutch Muslims. In practice, this has led to some Moroccan youths in particular rebelling” against the moderate, established Moroccan Islam of their families.

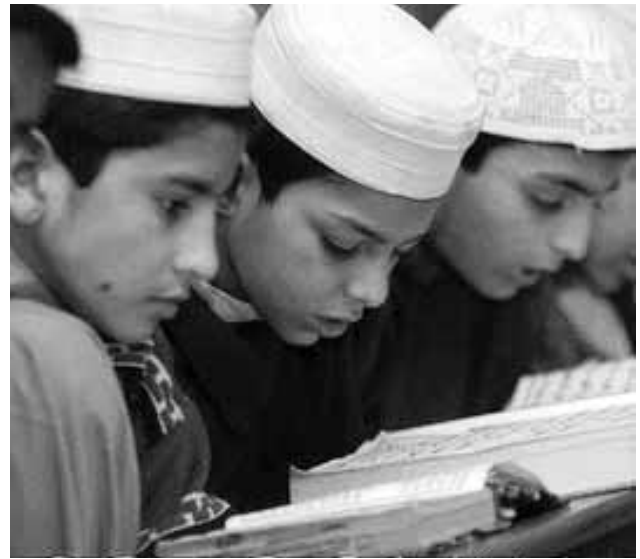
The CIP Survey of *Shariah* Agitation in The Netherlands

The Centre for Islamic Pluralism completed its field survey of *Shariah* agitation and attitudes toward it in Dutch Muslim communities in the second half of 2008, directed by Stephen Schwartz and Kamal Hasani, with special assistance from Irfan Al-Alawi, who has lectured at Leiden University. Interviews included extensive meetings and discussions in Amsterdam and Leiden. Interviewees included imams, community and communications representatives, social workers, and rank-and-file mosque attendees, as well as academic experts and journalists.

(1) Family/schooling

Beginning in 1989, Islamic primary and secondary schools were established in the Netherlands, and now total 40. These schools are organised on the basis of religion rather than ethnicity, and Moroccan, Turkish, Surinamese, and other Muslim children are educated together in them.¹⁵⁸

State subsidy for Muslim schools represents an extension of the long-established Dutch policy of “pillarisation” (*verzuiling*) under which differing religious communities –



Top: boy pupils at an Islamic primary school

Left: window at Hidayah Islamic primary school in Nijmegen, Holland

originally Catholics and Protestants – were provided separate educational, medical, and media facilities, including subsidies for specialised professional media training. “Pillarisation” originally extended to the broader environment, in that Dutch political parties and trade unions were also supported for Catholics and Protestants on a separate basis. Jews and Muslims were drawn into “pillarisation” in a more limited way because of the smaller size of their communities; neither of them organised distinct party or labor sections, but Jews, Muslims, Hindus, Buddhists, and Humanists all have benefited from government-mandated aid for their own special media enterprises, in addition to such smaller Christian denominations as the Evangelicals.

Christian “pillarisation” underwent rapid decline during the 1960s, with the diminution of religiosity in Dutch culture, but Muslims in particular continued to take advantage of the Christian precedent in law. The Dutch writer Herman Pleij, usually referred to by his last name, commented in 1999, “Holland was the most segregated country in the world until the 1960s. Interestingly enough, we did not knock each other’s brains out. On the contrary: it

produced a pacified and enormously thriving society”.¹⁵⁹ As we have suggested, however, Dutch opinion in the 1990s judged “pillarisation” for Muslims and multiculturalism in general to have failed, in that Muslims remained on the margin of society, in their economic status no less than in attitudes. In 2003 Dutch Prime Minister Jan Pieter Balkenende, representing the conservative Christian Democratic Appeal (*Christen Democratisch Appèl* – CDA) party, criticised Islamic schools established through “pillarisation”, as an obstacle to assimilation, and was supported by then-member of parliament Hirsi Ali, elected by the People’s Party for Freedom and Democracy (*Volkspartij voor Vrijheid en Democratie* – VVD).

Islamic teaching materials for use in the Muslim public school “pillar” did not, according to one journalistic investigation, include pro-*Shariah* or otherwise controversial topics. Islamic public school lessons concentrated on positive aspects of the religion in general, although they included such debated topics as the appropriateness of *Qur’an* translations from Arabic to other languages (considered fully legitimate in official Turkish Islam but challenged by many Arab and other

fundamentalist Muslims), and discussion of the headscarf and wearing of jeans.¹⁶⁰ The public schools in the Islamic “pillar” have also been strongly defended as an alternative to mosque instruction which, as we ourselves have observed, may often include provision for corporal punishment and anti-Western propaganda.¹⁶¹ In November 2008, State Secretary for Education Ronald Plasterk of the Labor Party proposed¹⁶² that the *abaya* or *burqa* and *niqab* be banned from primary and secondary schools, both for girls and visiting mothers. Plasterk described the coverings as “disadvantageous to women” and liable to “make integration difficult”. At the end of 2008,¹⁶³ the Dutch Ministry of Education alleged that 86 percent of Islamic primary and secondary schools had engaged in financial fraud by submitting fake bills, for work that was not accomplished, school transportation, and unauthorised student trips, while the quality of education in half of them was considered “weak”, in contrast with a rating of “weak instruction” for only 11 percent of non-Muslim schools. The Dutch Ministry of State ordered that the Muslim schools be placed under close supervision by the official Schools Inspectorate.

The NCTB describes the current situation with admirable clarity. Aside from the disaffection visible in the murder of Van Gogh and threats against Hirsi Ali, radicalised “boys and girls are clashing with their environment because they refuse to shake hands with the opposite sex and because girls want to wear veils at school. The increase in the number of disputes about these subjects which are being submitted to the Commission for Equal Treatment (*Commissie Gelijke Behandeling*) illustrates this development”.¹⁶⁴ The Commission for Equal Treatment is an official anti-discrimination agency comparable to such agencies in the U.S., UK and elsewhere.

Moroccan Muslim youth in the Netherlands therefore reproduce the widely-described paradigm of a new generation caught between competing influences. These include:

- a dominant Moroccan Islamic tradition legitimised by the Moroccan royal authorities, and that is overwhelmingly moderate, modernist, and Sufi-oriented;
- by contrast, a Moroccan political system that is seen, even by moderates and especially by many people of Berber/Amazigh ethnicity – a probable numerical majority in Morocco – as antidemocratic and oppressively restrictive of the Amazigh culture;
- and a Dutch popular culture that seeks to minimise foreign religious and ethnic loyalties among immigrants.

The situation of Dutch Moroccan youth is illustrated by publicity in the monthly magazine *Mzine*, which is published in Dutch. Issues of *Mzine* include numerous images of young Muslim women without covering, and information about such events as a 2008 beauty pageant titled “Inspiration for Integration”, as well as debates on fundamentalist Islam and advertisements for Muslim recruitment to the Amsterdam police force and the Dutch army. At the same time, the periodical features such Islamic consumer products as alcohol-free cosmetics, *halal* baby food, Mecca Cola, McArabia *halal* fast food (minced lamb in pita), and, most remarkably, Halal Barbie, a doll produced in Syria, with an elaborate *hijab*.¹⁶⁵

In 2007, El Hema, an art experiment representing an Arab-oriented version of a Dutch department store, Hema, opened in Amsterdam. A second El Hema operated in Rotterdam at the end of 2008. A Barbie doll in *hijab* was a featured product.¹⁶⁶ Other commercial considerations affect Dutch Islam. Rabobank, a large Dutch financial-services cooperative, has announced that it will offer “Islamic finance” products in response to proposals for “interest free” housing purchases. In addition, Muslims have taken note of the overproduction of *halal* meat in the Netherlands, with the Islamic butchering industry having become a source of export income for the country.

(2) Institutionalisation of *Shariah* by non-Muslim governments (“Parallel *Shariah*”)

“Pillarisation” in the Netherlands differed significantly not only from policies in Britain, in being more extensive and expensive, but especially from those in Germany, where no such elaborate efforts have been made to include Muslims in special official structures. The Dutch government recognises a Contact Body for Muslims and Government (*Contactorgaan Moslims en Overheid* – CMO) as a representative of Muslim interests, but the CMO is viewed by moderates as pro-*Shariah*. CMO includes *Milli Gorus*, the Union for Moroccan Muslim Organisations in the Netherlands (*Unie voor Marokkaanse Moslim Organisaties in Nederland*, UMMON), and the Imams’ Association of the Netherlands (*Vereniging Imams Nederland*, VIN). CMO comprises, as well, a Surinamese-Indian grouping, the World Islamic Mission (*Stichting World Islamic Mission Nederland*), which maintains the Taiba Jama mosque in Amsterdam, and is associated with the fundamentalist Pakistani-Deobandi interpretation.¹⁶⁷ In a model similar to that of “pillarisation”, training of clerics for service in Dutch mosques is paid for by the government.

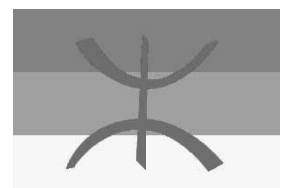
The Moroccan Imams’ Union (*Marokkaanse Imam Bond* or MIB), an agency of the Moroccan government, occupies a place in the Moroccan diaspora in Holland similar to that of the DİTİB in the Turkish communities abroad, as an extraterritorial religious authority. Some Dutch-Moroccans complain that involvement of clerics in the Netherlands with the Moroccan authorities interferes with Dutch-Moroccan Muslim religious life. For example, in October 2008,¹⁶⁸ some 40 imams were suddenly called back to Morocco for consultations. Members of a community group, the Cooperative Union of Moroccans in the Netherlands (*Samenwerkingsverband van Marokkanen in Nederland* or SMN) complained about this action. SMN director Farid Azarkan declared, “The imams get paid by the mosques. However, the influence of the Moroccan government

stretches so far that the imams immediately pack their bags when Rabat [the Moroccan capital] calls upon them”.

Similar comments were forthcoming from Dutch non-Muslim politicians of both left and right. Labor Party legislator Jeroen Dijsselbloem said, “I’ve been told that they were recalled for instructions. It is unacceptable that Morocco interferes this way with Moroccans working in the Netherlands. A lot of them do not want this, they want to integrate”. Madeline van Tooreburg of the CDA condemned the action as evidence that the Moroccan government exercises undue pressure over Moroccans in the Netherlands. But Moroccan and other Muslims in the Netherlands also complain that a double standard is visible in the differing treatment of the MIB and the DİTİB, in that the former is subjected to considerable public scrutiny as an expression of “dual loyalty” among Dutch-Moroccan Muslims, while no such attention has been focused on Dutch-Turkish Muslims.

Within the Dutch-Moroccan community, the role of the MIB is also a source of dissension between Moroccan Arabs and Berbers/Amazigh. MIB imams in the Netherlands are exclusively Arab, even when serving Berber congregations. While reliable statistics are unavailable, it is frequently asserted, and in our view credible, that at least half of Moroccan Muslims in the Netherlands are Amazigh from the Rif mountain region. As described in our *Case Studies: France and Spain*, a similar or greater Berber demographic representation is probable among French and Spanish Muslims. In all cases involving Moroccans in Europe, Berber immigrant demography reflects the reality in the country of origin.

Berbers/Amazigh, somewhat like Kurds in relation to Turks, have no independent state territory, but have adopted a national flag that is displayed in Muslim communities in the Netherlands, France, and Spain. (Kurdish flags are seldom seen in Germany or



the Netherlands, except at political demonstrations.) Finally, like Kurds, Kabyle Amazigh, according to our informants, are especially known for their dedication to their own customary law, rather than *Shariah*. Although a systematic analysis of Berber legal systems remains to be completed in the West, the Berber attachment to customary law could represent a bulwark against the penetration of *Shariah* agitation among Moroccan and Algerian Muslims in the Netherlands, France, and Spain. In a marked and promising contrast with Kurdish customary law, however, Berber customary law does not produce so-called “honour” murder in Europe. Berbers may commit so-called “honour” murder in North Africa, but in Europe they have imported traditional procedures for reconciliation. Berbers also do not practise FGM. But Berber customary law denies traditional Islamic rights of inheritance and division of property to divorced women.

An alternative to CMO, the Contact Group Islam (*Contact Groep Islam* — CGI) brings together the two main heterodox Muslim tendencies in the Netherlands, the Lahori faction of Ahmadiyya and the Alevi, with other small entities, including the Council of Moroccan Mosque Organisations in the Netherlands (*Raad van Marokkaanse Moskeeorganisaties Nederland* — RMMN) and the Netherlands Muslim Council (*Nederlandse Moslim Raad* — NMR). CMO and CGI each maintain their own media enterprises: CMO manages the Dutch Islamic Broadcast Organisation (*Nederlandse Islamitische Omroep* — NIO) and CGI member group NMR runs the Dutch Muslim Broadcasting Service (*Nederlandse Moslim Omroep* — NMO).

In October 2007, the Centre for Islamic Pluralism condemned the reported seizure of NMO by Islamist radicals.¹⁶⁹ Dutch media stated that the subversion of NMO was a product of a policy decision by an official monitoring agency, the Media Commission (*Commissaariat voor de Media* — CvDM), which dictated that NMO be

combined with the “orthodox” NIO so that Muslims would have a single broadcast service in the Netherlands. NMO was previously run by Dutch members of the Alevi movement, and also included representatives of the Ahmadi sect, but Alevi and Ahmadi personnel were reportedly expelled from NMO. Subsequent investigation by CIP in the Netherlands indicated that the charge of such expulsions was unfounded, and the report of the supposed takeover, which originated with the Dutch Nova TV network, was corrected early in 2009 following a court order.

Nevertheless, the Dutch government has assumed a posture identical to that of the German federal power in calling for the establishment of a single Muslim organisation, uniting all groups, to simplify relations between non-Muslim authorities and the Muslims. The goal is, as cited in *Case Study: Germany* above, to have one “telephone number” as a means of reference for non-Muslim leaders. Unfortunately, as in Germany, such a requirement ignores the substantial differences between Wahhabi, Deobandi, and other fundamentalist groups, such as the Muslim Brotherhood (MB), claiming the mantle of Sunnism, and heterodox spiritual and ethnic communities like the Alevi and Berbers. In addition, a similar trend toward homogenisation, which may seem positive to immigration experts but which we consider an obstacle to the defeat of radical Islam, is visible in France and Spain.

Late in 2006, Dutch Justice Minister Piet Hein Donner, representing the CDA, had provoked an uproar that, two years in advance, anticipated similar debates in Britain and Germany. Donner commented somewhat insouciantly, in a magazine interview, that the Netherlands could adopt *Shariah* as law if two-thirds of its parliament voted to do so.¹⁷⁰ Donner’s remark did not refer specifically to either a special legal system for Dutch Muslims, or, as numerous Islamophobic commentators suggested, that *Shariah* could be imposed on

non-Muslims as well as Muslim subjects. But Donner also stated that he would be pleased to see Muslim extremists serve in the Dutch parliament, as a means to advance integration. Donner later argued that he had merely engaged in a spontaneous meditation on the nature of democracy, and that he intended to warn against *Shariah*.

In the aftermath of Donner’s inarticulate statements, Dutch parliamentarians, including those from his own party, called on him to take a stand against *Shariah*. Labor Party representative Joeren Dijsselbloem commented, “The Minister of Justice should dedicate his energy to combating these attitudes, instead of putting forward the opinion that such conceptions could become part of our democracy”. The CDA party, to which Donner belongs, introduced legislation banning any political party with doctrines inimical to the Dutch constitution. Dow Jones International News pointed out that the proposed law would ban Islamist parties, although none exist openly in the Netherlands. The same news service recalled that Bouyeri, the murderer of Theo Van Gogh, had asserted that in the future, “The parliament will be renamed a Sharia court and the chairman’s gavel will fall to ratify Islamic [criminal] sentences”.

Such rhetoric was identical to similar exaggerated claims made by radicals in England, and in both countries, the arguably ludicrous blandishments of extremists provided fodder for the fantasy, shared by Islamophobes and Islamists, of a Muslim takeover. Piet Hein Donner resigned from office not long afterward, following his admission of partial responsibility for a fire in a jail at Schiphol airport in which 11 immigrants waiting to be deported had died. But his excursion into *Shariah* as an appropriate legal standard for the Netherlands was not his first involvement in such a dispute. Donner had provoked an outcry in 2004 when he ordered that uniform headscarves be required for all female Muslim guards and related personnel in Dutch prisons. Donner argued that a standard headscarf would be safer than individual headscarves,

which were already legal for female prison employees to wear. Finally, he ordered adoption of the institutional headscarf.¹⁷¹ In 2007, not long after his *Shariah* controversy, Donner returned to high political responsibility as State Secretary for Social Affairs and Employment, which position he occupied at the time of the current study.

Donner’s intention in 2006 was defended by one of the leading scholars of Islamic studies in the Netherlands, Annemarike Stremelaar of the Institute for the Study of Islam in the Modern World (ISIM) at Leiden University, as that of seeking a means to better integrate Muslims into Dutch society. Dr. Stremelaar, when interviewed by CIP researchers, said Donner merely sought to widen “the space for accommodation of immigrants”, i.e. a *reasonable* accommodation, according to the American legal idiom.

In addition, Dr. Stremelaar pointed out that, in contrast with subdued Muslim interest in *Shariah* in the Netherlands, greater problems have attended the construction of mosques, especially large religious buildings like the projected Essalaam mosque in Rotterdam. As is the case with the Merkaz megamosque proposed for London (with a site near the Olympic Village serving the 2012 Games), which is supported by the Deobandi missionary movement *Tabligh-i-Jamaat* (TJ) and is designed to hold 12,000 worshippers, the Rotterdam mosque has been promoted as the largest mosque in Europe. It is, however, doubtful any structure in Western Europe will surpass mosques in European Turkey and in Russia in size. Also like the London Merkaz mosque, the Rotterdam Essalaam mosque has attracted opposition from local Muslims as well as non-Muslims. In Rotterdam, Muslim demonstrators have protested against the prospective control of the Essalaam mosque by



Piet Hein Donner

the Dubai-based Al-Maktoum Foundation, expressing fear of excessive Arab influence as well as concern over an alleged lack of transparency in the mosque's financial accounting.¹⁷²

Dr. Stremelaar voiced the common argument for construction of new mosques, which is that in their absence, religious observances will be driven underground, into garages, homes, small commercial facilities, and similar private spaces. Two extremes have developed regarding this issue; in Britain moderate Muslims argue that the number of existing mosques is sufficient for the community's needs, while in Germany the proliferation of unofficial "prayer spaces" is especially notable, although many such also exist in France and Spain. German policy experts have therefore encouraged the construction of mosques to remove religious observance from semi-clandestinity. Informal "prayer spaces" are often publically advertised, including on the Internet, but do not exhibit minarets, Islamic architectural features, or other markers facilitating their recognition by the non-Muslim public. The Netherlands appears to be closer to the German example than to the British case.

The AIVD intelligence directorate has predicted a new radical campaign in favor of "parallel *Shariah*", as follows:¹⁷³

"b. Tactics which are being considered:

"• Attempting to gain influence inside political parties, the judicial system and other social organisations such as trade unions, professional associations, student bodies and consultative organs, including by means of clandestine entryism.¹⁷⁴

"• Deliberately attempting to disrupt social harmony or to create tensions by, for example, spreading false rumours or conspiracy theories.

"• Using persuasion or intimidation to implement a Sharia-based legal system within a particular community or neighbourhood.

"• Attempting to gain influence within political parties or other social organisations with a view to taking them over in the long term.

"• Attempting to influence political officeholders through intimidation, bribery or, if they are Muslim origin, branding them as traitors to the faith and their own community".

In pointing to the danger of "a Sharia-based legal system within a particular community or neighbourhood", AIVD has put forward a reasonable and accurate summation of the problem represented by "parallel *Shariah*" – above all, that it will foster separatism and *Shariah* enclaves. Dutch concern about such communal entities echoes commentary about "no-go" areas, as cited in *Case Study: Britain*, above, and *Case Study: France*, below. Still, drawing on the essentially pluralist principles of Dutch politics, AIVD declares "some forms of radicalism are permissible within the boundaries of the democratic legal order".

AIVD goes on to warn that "isolationism", which would be described in the U.S. idiom as voluntary self-segregation, "poses no threat to that order as such. In a democratic society, citizens retain the freedom – albeit within certain limits – to pursue their own lifestyle and to decide for themselves how they conduct their relationships with each other and with the government. But if their withdrawal from society starts to endanger basic rights and freedoms of others, then they have overstepped the mark and are damaging the democratic legal order.

"In this light, certain forms of *intolerant* isolationism do represent a particular threat: *exclusivism* in respect of one's own group and *parallelism*. Exclusivism is expressed through discrimination, incitement and sowing hatred. Parallelism does not recognise the authority of government, seeks to impose religious laws before secular ones and tries to create enclaves in which that system rather than government authority prevails.

"Under certain conditions, judicial

intervention against these forms of isolationism is possible and the government can impose proscriptions. When, for instance, exclusivist isolationism leads to actual discrimination, incitement and expressions of hatred.¹⁷⁵ Or when parallelism actually results in the imposition of an alternative system of justice”.

Dutch official efforts to contend with radical activities by cooptation, although radicalism is, in our observation, limited in scope, have not ended. In October 2008,¹⁷⁶ the aforementioned National Coordinator for Investigation of Terrorism (NCTB) published a paper calling on the authorities to pay more attention to the preaching of Wahhabi radicals, as offering “useful criticism of Dutch society”. The NCTB suggested that cooperation with such figures would bind them closer to the established system, and limit the influence of “more violent” Wahhabis (still referred to as “Salafis” in Dutch official discourse.) We view this attitude as dismaying and counter-productive.

(3) Criminal aspects

AIVD has also reported “there are ‘peripheral’ groups which try to use their supposed Islamic radicalism to justify what simply could be characterised as escapism, nihilism, hooliganism, vandalism or criminality”. The existing radical Islamist agenda includes, according to the agency, “Attempting to encourage people in the immediate vicinity, neighbourhood or wider Islamic community into certain forms of civil disobedience. For example, not paying taxes, removing children from school, providing incorrect details when applying for a student grant or loan and withholding information from the police”. The latter habits recapitulate attitudes toward crime among Wahhabi Muslims in Britain and the U.S. A large percentage of the Dutch Muslim prison population is reportedly of Moroccan origin.

(4) Approach to Women

Minor incidents and details in inter-group relations have caused considerable controversy in

the Netherlands. In 2006, simultaneous with the acrimonious exchanges caused by his remarks on the permissibility of *Shariah* as a Dutch legal standard, Piet Hein Donner defended a Dutch imam for refusing to shake hands with Queen Beatrix, in accordance with radical *Shariah*, during a royal visit to a mosque in Den Haag.¹⁷⁷ (It might be expected, however, that the Dutch monarch was accustomed to such a ban in meeting with Orthodox Jewish rabbis.) Ahmed Akgunduz, rector of the Islamic University of Rotterdam, who claims inspiration from the Nurcu movement in Turkey, has become known for his defence of wife-beating.

The problem of so-called “honour” murder among Muslims in the Netherlands has been dramatised by the writings and other public advocacy of Ayaan Hirsi Ali.

In 2003, a substantial reportage in a local Dutch newspaper quoted a woman of ethnic Turkish origin, Sezai Aydogan, who has investigated so-called “honour” murder for a Dutch organisation, Movisie, based in Utrecht, that unfortunately does not produce materials in English.¹⁷⁸ The article appeared soon after the shooting of 18-year old Zarife (family name undisclosed), a girl from the town of Almelo, by her father, on the pretext of “honour”. Aydogan at that time estimated that 20 so-called “honour” murders of girls occurred each year in the Netherlands, and stated that restrictions on the movements of females were observed among Turkish, Iranian, Afghan, Pakistani, Somali, and Surinamese-Indian residents.

Aydogan’s interviewer described the impact in the Netherlands of the case, in 1999, of a shooting at a school in the town of Veghel, where 17-year old Ali D. shot 19-year old Hasan K. because of a romantic relationship between Hasan K. and Ali D.’s sister. The family of the aggressor disapproved of the victim because the latter was considered of inferior social status in Turkey. Hasan K., however, survived the attack. Although the victim was a male, the case was motivated by an alleged offence to the honour of a daughter.

Aydogan stated that while so-called “honour” murder may not be inspired by Muslim religious principles. “Islamic society creates an atmosphere conducive to honour killings, since it emphasises separation of the sexes. However, honour comes first; then religion”.

A 2003 study by a scholar at the University of Amsterdam, Clementine van Eck, who also comes from Almelo, thoroughly analyzed the phenomenon among Turkish Muslims.¹⁷⁹ Van Eck acknowledged that so-called “honour” murder occurs in Turkey at the rate of six per month, but is also found in Germany, the Netherlands, France, Belgium, Sweden, and Denmark. She assembled and reviewed a significant number of case studies, and included the stipulation, “Although the *sharia* (Islamic law) neither prescribes nor condones honour killing as carried out among Turks, pious Turkish Muslims do invoke their faith when committing an honour killing”.

Citing a particular case by the name of its perpetrator, she wrote, “Some honour killers are aware that Islam does not condone honour killing. According to the psychologist’s report in the [Kemalettin] Utlu case study: ‘Utlu broods over the Koran. He asks himself how Turkish Muslims can claim that the Koran requires you to kill your wife if she has an affair. It doesn’t say that anywhere in the Koran.’ ” Kemalettin Utlu, a Turkish-born male in his ‘20s, killed the female friend of his teenaged girlfriend after the latter had an abortion. Van Eck noted that in the Utlu case the victim was not the original target, and that the crime could be considered a so-called “honour” murder of the wrong person”, but the perpetrator, as in other cases, considered the alleged dishonour to be a product of conduct by the victim and her friends. Van Eck thus made an important point: “Honour killings of third parties are rare. Nevertheless, the fear of being killed is very real. People think twice before becoming involved with a young woman” if the latter is viewed as compromised in the Turkish value system.

In 2005, Turkish and Kurdish organisations in the Netherlands launched a

national petition against so-called “honour” murder, through the Cooperative of Relief Organisations (*Samenwerkende Hulporganisaties* – SHO). The petition was signed by Ayaan Hirsi Ali and Nebahat Albayrak, among other political figures.¹⁸⁰ A plan for establishment of a national response centre to deal with so-called “honour” murder was announced in 2007, based on a pilot project in Den Haag.¹⁸¹ The centre was duly established, and at the end of the same year, had registered a marked increase in the number of case reports. The Dutch authorities recorded 470 incidents of so-called “honour-related violence” in 2007 alone, but without publically separating out fatalities.¹⁸²

Forced marriage has also gained attention in Dutch media. In 2004, 25 EU countries met in Rotterdam to confer on problems of forced marriage, FGM, and domestic violence.¹⁸³ The following year, the Dutch Advisory Commission on Aliens Affairs (*Adviescommissie voor Vreemdelingenzaken* – ACVZ) issued a report, titled *Forced Into Marriage (Tot het huwelijk gewongen)*.¹⁸⁴ The ACVZ study, like similar documentation elsewhere, offered a distinction between forced and arranged marriages, based on the presumption of consent in the latter. ACVZ disclosed that forced marriage, like so-called “honour” murder, was found to occur in nearly all Muslim communities in the Netherlands, including Turkish, Kurdish, Moroccan, Surinamese-Indian, Somali, Iranian Kurdish, and Afghan people, as well as among Chinese, the last presumably non-Muslim. (Balkan Muslims were, significantly, apparently free of the problem.) But ACVZ could not quantify the incidence of forced marriage. As in the UK, many victims were schoolgirls. ACVZ called on Dutch diplomats to act against forced marriage through scrutiny of immigration applications. But it also supported the model seen in British interventions in Pakistan and specific emulation of the British government’s Forced Marriage Unit, as described in the *Case Study: Britain*, above. ACVZ called for Dutch adoption of legislation banning forced marriages.

In 2007, the city of Amsterdam initiated a special research project on forced marriage,¹⁸⁵ and in 2008 Rotterdam, working with local Islamic groups, launched a campaign against the custom.¹⁸⁶ At the end of 2008, two Dutch anthropologists, Edien Bartels and Oka Storms, of the Free University of Amsterdam, reported¹⁸⁷ that forced marriages had become noticeably less common among Turkish and Moroccan residents of Amsterdam. Arranged marriages were still found among Kurds, Pakistanis, and Hindus, but had come under the pressure of social disapproval. Afghans were the only group in which the practice was effectively unchallenged. In addition, while Muslim-Muslim marriages remained a norm, ethnic identification had declined in significance, with Turkish-Moroccan marriages becoming commoner.

The practise of FGM has not been notable in the Netherlands. In February 2009 a Moroccan man living in Haarlem was arrested for the genital mutilation of his daughter, aged five. One Dutch media source¹⁸⁸ stated that in 2007-08, 44 reports were submitted to child-abuse hotlines, claiming FGM had taken place in the Netherlands. But another stated¹⁸⁹ that the prosecutor in Haarlem said the authorities had no experience with such cases, and that the Dutch Ministry of Health, Welfare, and Sport observed that no proceeding in an FGM complaint had yet been undertaken in the country. Earlier in the same month, Labor Party State Secretary for Health Jet Bussemaker called for a regulation under which Dutch residents from countries with a high risk of FGM, including Somalia, Sudan, and Ethiopia, when traveling to their native lands, be required to sign an oath to refrain from the practise, with criminal penalties for violation of the agreement.

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7. Case Study: France

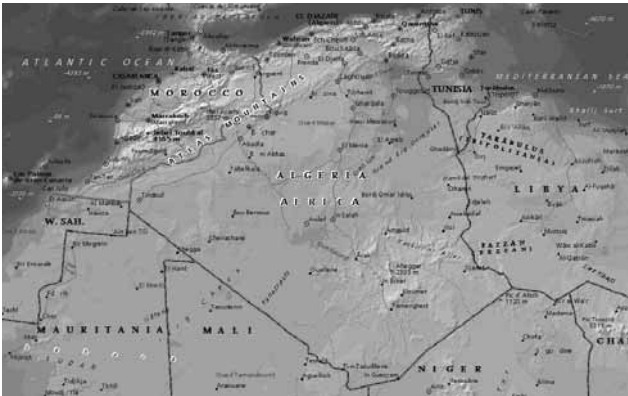


Introduction

France, unlike the North European countries of Britain, Germany, and the Netherlands, is one of four Western European nations, with Spain, Italy, and Portugal, that, prior to the substantial penetration of the Muslim countries by European colonialism (rather than Crusader campaigns), had direct experience with Islam. Of these four, Spain has the longest and deepest legacy of Muslim occupation, extending from 711 to 1492 C.E. Similar developments, although less studied, took place in Portugal and continue to evince a visible impress on the society. The intellectual heritage of Southern Italy was transformed by Arab rule, from the eighth to the end of the 13th century, and Italian life was profoundly altered again with the rise of Ottoman-Venetian trade after the fall of Constantinople in 1453. France underwent the

shortest period of Arab invasion, but its collective memory includes Muslim defeat at the battle of Tours in 732, Spanish Arab literary influence in the development of troubadour poetry and Provençal courtly life, the activity of Muslim merchants and shepherds from Spain in the country, and the commencement of a Franco-Ottoman commercial, military, and political alliance in the 16th century.

France today includes between four and six million Muslims, comprising up to 10 percent of its population. Demographically, this is the largest Muslim share of population in Western Europe. Total functioning mosques are currently estimated at around 1,600. France controlled a number of majority-Muslim foreign possessions until recently (such as the Comoro Islands in the Indian Ocean and Djibouti in the Horn of Africa). Paris still governs overseas *départements* and territories (the “*DOM-TOM*”, i.e. Guyane in South America, the Caribbean islands of Martinique, Guadeloupe, and St. Martin (shared with the Netherlands), and Réunion in the Indian Ocean, as well as other islands in the Indian Ocean, French Polynesia, North America, and territory in Antarctica. While some of these overseas regions include Muslims who are considered French citizens but contribute to Islamic immigration into the metropole, the very great majority of French Muslims are migrants and their descendants, originating from North Africa, especially Morocco and Algeria (the core of the region known as the *Maghreb*, or Islamic West), and from the former French colonies in West Africa and the Comoros. North African immigration to France began in the aftermath of the first world war, in response to labor shortages in the metropole.



The Maghreb

Maghrebi immigrants to France, like other *Maghrebis* in Europe, are divided between Arabs and Berbers. While reliable statistics on their population are unavailable, the claim is often heard, as in the Netherlands and Spain (see following *Case Study*) that Berbers constitute the *Maghrebi* majority in France. An unknown but large number of French Muslims of North African and African origin are affiliated with powerful Sufi orders. Morocco is a global centre of Sufism, as are the formerly French-ruled West African nations of Guinea, Sénégal, Mali, and Mauritania.

France has also attracted Pakistani, Turkish, and (very few) Balkan Muslim immigrants, as well as Iranian exiles, some of whom, as in Germany, along with a small representation in the Netherlands, may define themselves as ex-Muslims. The controversial Iranian Marxist anti-government group People's Mujahidin (*Mujahidin-e-Khalq* – MEK), which aligned itself with the former regime of Saddam Hussein in Iraq, is designated a terrorist group by the U.S., but has maintained a tenacious presence in France, even against aggressive government prosecution, including raids and related actions to restrict or expel it.

We have described Britain and France as the two countries in which the European colonial heritage most definitively influences the pattern of Muslim immigration. Yet a major distinction should be observed. Pakistani, Indian, Bangladeshi, and East African Muslims moved to Britain, and continue to do so, because of broad economic and social relations between the empire

and the former colonies, and many in the late 20th century came to Britain with a commitment to a general “British Commonwealth” identity (sometimes legitimised by recognition of Commonwealth passports). In France, by contrast, many Muslim immigrants arrived in the immediate aftermath of the collapse of French rule in countries like Algeria, and were stigmatised in their countries of origin as “*harkis*” or French collaborators; their interest in becoming French, although doubtless sincere, was often based more on necessity than sentiment.

Finally, an important factor in Algerian immigration to France has been the impact of the “second Algerian war”, from 1991-2000, in which Islamist extremists influenced by Saudi-financed Wahhabism carried on a terrorist campaign confronting the Algerian government and against ordinary Muslims. Algerian refugees from such atrocities are therefore active in France. The main combat group within the broader fundamentalist movement in Algeria, the Armed Islamic Group (generally known by its French initials as the GIA), produced another entity, formerly known as the Salafi Group for Calling to Religion and Combat (*al-Jamaa as-Salafiyya li Da'wa wa'l Qital* – French initials GSPC). The GSPC has, in turn, been retitled “Al-Qaida in the Islamic Maghreb” and has drawn some recruits from Morocco, while also penetrating the sub-Saharan, Black African Muslim countries of Mauritania, Mali, Chad, and Niger. “Al-Qaida in the Islamic Maghreb” has continued its terror activities in Algeria, but has yet to carry out actions in France itself. Algerian and Black African supporters of this movement are present in the metropole but function in deep clandestinity.

France has experienced significant outbreaks of urban violence involving youths of *Maghrebi* and Black African background, many of them presumably born in France. These are known as “*banlieue* riots” because they originate in the Parisian and other suburbs (“*banlieues*”) mainly occupied by *Maghrebis* and Black



The banlieue riots of 2007

Africans, although children of Christian immigrants as well as ethnic French youth have also participated in them.

The main *banlieue* riots took place in 2005 and 2007. While media reporting outside France has sometimes hastily traced the resentment of *banlieue* youth to a conflict between Islamic identity and the French constitutional principle of *laïcité*, or strict secularism, there is little empirical or official evidence to support such perceptions. (In part, this and other problems of social analysis are complicated by the ban on collection of religious statistics of any kind under *laïcité*.) Some non-Muslim commentators have even alleged that the *banlieues* have become “no-go” areas, if only for police, and are now *Shariah* districts. Still, *banlieue* discontent is more widely blamed on discrimination in employment and lack of other opportunities for upward mobility than on religion-based ideology. The Union of Islamic Organisations in France (*Union des organisations islamiques de France* – UOIF), which has been linked to Saudi financing, the ECFR and the Muslim Brotherhood, issued a *fatwa* in November 2005¹⁹⁰ condemning the riots and telling Muslim youth “it is formally forbidden to any Muslim seeking satisfaction and divine grace to participate in any action that strikes in a blind manner at private or public property or which may harm the life of another person”. At the same time, however, and as described further below, some moderate Muslim leaders, including the rector of the Grand Mosque of Paris (*Mosquée de Paris* – GMP) and former president of the now-defunct Supreme Muslim Council of France (*Haut Conseil des Musulmans de France*), Dr. Dalil Boubakeur, and the rector of the Lyon Mosque (*Mosquée de Lyon*), Kamel

Kabtane, criticised the action of the UOIF as a religious usurpation of authority regarding a civil issue.¹⁹¹ Dr. Boubakeur is an Algerian-born physician by profession, reported to bear Algerian diplomatic status, who inherited his clerical post in Paris from his father, Si Hamza Boubakeur. Dr. Boubakeur and Kabtane have been rivals but succeeded in forming a partnership in opposing the *banlieue* intervention of the UOIF.

The paradoxical nature of this debate illustrates the internal complexities of French Islam. While the Dutch Muslim community is the most diverse in Western Europe, and is threatened by radical infiltration (although less than in the UK), the French Muslims are the most deeply riven by insurmountable rivalries. For example, French non-Muslim opinion has adopted as a watchword the condemnation of “*communautarisme*”, meaning the fragmentation of French society into different cultural and ethnic groups – somewhat as “multiculturalism” is currently assailed in the U.S. But some elements of “*communautarisme*” may prove indispensable for the defeat of radical Islam in France. The abolition of any form of “*communautarisme*” might submerge Kabyle Berbers/Amazigh, who are now a bulwark against radical *Shariah*, into a single French identity in which they would be subordinated to an Arab Islamist interpretation.

The French sociologist Olivier Roy¹⁹² has drawn a distinction between a personal “re-Islamisation” in which believers displaced from their original societies to the West seek to deepen their commitment to *Shariah* in their daily lives, and a contrasting public pursuit of an Islamic state in the West. Based on the conflict between Roy’s conception of such a “re-Islamisation” and



The banlieue riots, 2007

the arguments of Yusuf Al-Qaradawi, Taha Jaber Al-Alwani, and other theorists, for whom a “*fiqh* for minorities” [*fiqh al-aqalliyat*] leads to

the expansion of Islamic territory, we judge this distinction to be artificial. In the present Islamist ideological discourse, “re-Islamisation” implies radicalisation, separatism, and “parallel *Shariah*”, even when it does not command immediate defiance of the legal order in France. Roy himself admits that “re-Islamisation” requires a purified, “universal” Islam on the fundamentalist, Wahhabi model, stripped of local culture and civilisational components. (While the *fatwas* of Al-Qaradawi and the ECFR are printed and sold in France, Al-Qaradawi’s *Lawful and the Prohibited in Islam* was, as previously noted, banned.)

The Historical Background: Emergence of *Shariah* as an Issue in France

Public advocacy for establishment of *Shariah* as a legal standard is almost unknown in France, mainly because of the strong commitment of the country and its institutions to *laïcité*. In such an environment, any rhetoric calling for a breach with *laïcité* is bound to provoke immediate reaction from the French political elite, including legal sanctions. Further, as in the Netherlands and Germany, *Shariah* is a source of contention among French (and, as we shall see, Spanish) Muslims in that, historically, Berbers, like Alevis, have rejected Islamic law in favor of customary law.

The CIP Survey of *Shariah* Agitation in France

The CIP field survey of France was completed in November-December 2008 by Stephen Suleyman Schwartz. Although the investigation was less easily accomplished than in England, Germany, and the Netherlands, Schwartz’s command of French and knowledge of the French Muslim environment proved sufficient for *Case Study: France* to be completed.

(1) Family/schooling

France possesses only four private Islamic high schools: two ordinary high schools, a preparatory school, and a school for training midwives. French Muslim children are therefore almost entirely educated in state schools. The French controversy over wearing of the headscarf by Muslim girls, typically and mistakenly referred to as a “veil”, and other issues of conduct in public schools, was the first debate over an element of *Shariah* in the West to gain worldwide attention. (As previously defined, the headscarf is properly called *hijab*, known in French as a *foulard* or scarf; a veil, covering the face, should be called *niqab*. French journalistic and political discourse sometimes, but not always, distinguishes between the two.)

In 2000, the authoritative daily *Le Monde* reported¹⁹³ on a poll showing changes in attitude about such issues in the previous dozen years. Given that in accord with *laïcité* any form of religious instruction was barred from French schoolrooms, the number of poll respondents favoring “instruction in the history of religions” had fallen from 65 percent in 1988 to 57 percent in 2000, although the integration of religious materials into history classes had been effected in 1996. In the latter year, 55 percent expressed their opposition to special menus (e.g. *halal* food) in school cafeterias, and 72 percent were against authorised absences from class on religious holidays. Also as the century ended, calls for permission for the wearing of *hijab* were heard from Muslim parents, along with demands familiar in other European countries, for Muslim girls to be excused from mixed-gender gymnastics and swimming lessons.

During the *hijab* contretemps, the moderate position of Dalil Boubakeur was articulately expressed. It may be noted that construction of the Grand Mosque of Paris was completed in 1922 as an homage to the service of *Maghrebi* Muslims in the French army during the first world war. The rector of the Grand Mosque of Paris stated that while he would prefer the option of *halal* food in schools, at present no such



Above: the Grand Mosque of Paris. Right: Dr. Dalil Boubakeur, Rector of the Grand Mosque of Paris

measure was possible, if only because the production of *halal* food in France was complicated by the inadequacy of slaughtering laws and facilities; in 2002, for example, the police prefecture of Paris included only six recognised *abattoirs* for such use.¹⁹⁴ Further, Dr. Boubakeur specified, “The way of Islam states that the believer must submit to the general laws [in a country of residence]... French Muslims must take account of their presence in a non-Muslim context”.¹⁹⁵ Dr. Boubakeur thus affirmed the position that we have underscored as that of traditional *Shariah*.

Dr. Boubakeur wrote in 2003¹⁹⁶ in firm support of *laïcité*, describing it as “an excellent thing” in a collection of essays prepared with rabbi René-Samuel Sirat, the Catholic philosopher Philippe Capelle, and an academic, Philippe Joutard, titled *The Teaching of Religion in Secular Schools (L’Enseignement des religions à l’École laïque)*. Dr. Boubakeur stated that there was no need for any change in the existing French laws on *laïcité* in schools, and supported the positivist philosophy that motivated the establishment of *laïque* schools. (Positivist philosophy is by no means widely popular among Muslims, in that the French Positivists are seen by many as responsible for the fall of the Ottoman caliphate [*khilafah*]). He declared, “If not for *laïcité*, the Muslim child I once was would never have been able to receive an impartial education, in that my personality would have

been confiscated by a religious authority... That did not prevent me from believing in my religion”. Dr. Boubakeur argued against an essential division between secular and religious values in the lives of individuals: “a secular person can possess a favorable image of a religious person and a good religious person can view *laïcité* in a positive light and his send his children to the *laïque* school”. Dr. Boubakeur affirmed the belief of the Spanish Islamic philosopher Ibn Rushd (1126-1198, known in the West as Averroës) that the sphere of rational awareness and that of spiritual awareness are separate, adding that *laïcité* promotes respect for the sacred. He further wrote, “the most urgent problem in the question of religious instruction, is to develop love for others”.

Dr. Boubakeur has borrowed three principles from the Jewish philosopher Emmanuel Lévinas:

- “1. The sacred exists in humanity as well as in God. But the existence of this sacred has a dual consequence:
- “2. The sacred exists in the relationship of man with God.
- “3. The sacred also exists in the relations among humanity”.¹⁹⁷

While these comments may seem digressive in a discussion of *Shariah* in France, they are significant in that Dr. Boubakeur is by far the most respected Muslim leader in France, exercising a role unseen in any other Western European country. Finally, he concluded his

remarks on education and *laïcité* in arguing, “We should make tomorrow’s citizen someone who assimilates the essence of the religions to live by the best of all faiths, if they wish”.

Dr. Boubakeur, as will be explained below, is not an unequivocal figure. He has taken positions on controversies like that of Salman Rushdie’s *Satanic Verses* and, in 2007, the publication of caricatures of Muhammad in Denmark, that reveal the dissonance in France between a commitment to free expression and laws against alleged defamation of ethnic and religious communities. But notwithstanding non-Muslim miscomprehension, this is not, strictly speaking, a *Shariah* issue, but a reflection of past political influence over French law, which is too convoluted to be easily addressed here.

The issue of the headscarf in schools provided a major test for the conceptions of Dr. Boubakeur, and was not easily resolved, especially since much reportage in French media recounted the similar political discord in Turkey, which had banned *hijab* in universities for decades. Many commentators, both Muslim and non-Muslim, interpret the adoption of *hijab* as a marker of identity, similar to participation in the *banlieue* riots, rather than an affirmation of religion, and therefore as innocuous in the long term. But we view the politicisation of *hijab* as a dangerous tendency toward cultural separatism. This may quickly transmute into religious separatism, as well as a trend toward the “youthful” and radical fundamentalist simplification of religion, similar to the improvised doctrines seen among British Muslim radicals and the “cool” Wahhabism noted in *Case Study: The Netherlands*. Some “modernist” Muslim women also defend *hijab* as a form of feminist security against harassment by men.

As 2003 gave way to 2004, discussion of the headscarf began to occupy considerable space in French media. In December 2003, French president Jacques Chirac pronounced¹⁹⁸ his firm opinion against the presence of religious symbols in state schools, a statement that was interpreted as referring in the main to *hijab*, although Chirac

also called for a ban on wearing of the Jewish *kippah* or skullcap by boys. The president additionally declared his opposition to the inclusion of the Muslim celebration of *Eid-al-Adha*, the feast of sacrifice at the conclusion of the *hajj* or pilgrimage month (known as *Eid-al-Kebir* in France and Spain and as *Kurban Bayram* among Turkish Muslims in Germany and the Netherlands), and the Jewish observance of Yom Kippur, in the calendar of school holidays. But Chirac said that students should not be penalised if they individually took these days off school, and that school examinations should not be scheduled in conflict with them. Chirac’s comments led to demonstrations in support of *hijab* in France as well as in Britain and various Muslim lands, with lively media coverage worldwide, but in February 2004¹⁹⁹ the French parliament voted to ban *hijab*, as well as *kippot* and large Christian crosses from state schools. A British television journalist predicted that the ban would be extended to turbans worn by Sikhs.

Late in 2008 a community periodical popular among *Maghrebis*, *Le Courrier de L’Atlas*, reported²⁰⁰ at some length that in French working-class neighbourhoods, Muslim parents were increasingly enrolling their children in Catholic schools, a phenomenon of which we also found empirical evidence in Britain. Education of Muslim youths in Catholic schools is an established tradition in many countries. As with French public schools, mothers in *hijab* or *niqab* remained outside the Catholic facilities when their sons and daughters entered to begin school hours. Catholic schools in France comprise 97 percent of all private schools, totalling 5,020 at primary level, 1,619 ordinary high schools, 202 agricultural high schools, and 576 high schools for professional training. These religious schools operate under contract to the state, and *hijab* remains forbidden, although Christian symbols such as icons and crosses are displayed within them. (The four Islamic schools operating in France do not maintain contracts with the state.) A minority of Catholic schools, however, permits the wearing of *hijab*. But

Catholic educators, in our view, correctly argue that *hijab* has a separatist significance that is inappropriate in a Christian school where a hostile attitude toward Muslims is forbidden. Catholic institutions are well-known in France for the elevated quality of their instruction, and the success of their graduates in gaining access to prestigious higher institutions – making the interest of Muslim parents in them understandable. Catholic schools also have an incentive to take in Muslim students to keep their enrollments at a level required for maintenance of their state subsidy.

Jean-Baptiste-de-la-Salle-Notre Dame de la Compassion, a Catholic school in the historic proletarian *banlieue* of St. Denis, a neighbourhood known for ethnic conflicts, now counts half of its students as Muslims.²⁰¹ The school’s director, Marie-Claude Tribout, pointed out that the Catholic church and the Islamic community possess some common values, “which we Christians find in the Gospels, but which a person of another faith certainly will find in their own Book”. A Muslim mother of three children, Kawthar, who was interviewed on this topic, said, “We share the same values, we believe in a single God, we have a common vision of the educational goal”. She specified that the values maintained by both Catholics and Muslims in France included respect for others, sharing, scholarly achievement, and rigorous instruction. Kawthar also expressed satisfaction with the particularly strict rules of the Catholic institution: “The merest insults are punished, some clothing styles are forbidden, such as baggy pants, hooded sweatshirts [both of which are markers of gang culture, originally seen in the U.S. and now worldwide], and even wearing jeans tucked into boots”. The Catholic schools adapt to certain aspects of Muslim life, such as fasting by children during Ramadan.

(2) Institutionalisation of *Shariah* by non-Muslim governments (“Parallel *Shariah*”)

Notwithstanding the international media panic generated by the 2005 and 2007 *banlieue* riots,

field observation of Muslim attitudes in France shows a majority favoring traditional, moderate Islamic positions. This aspect of French Muslim life was underscored at the end of 2008 when *Le Monde des Religions*, a bimonthly magazine associated with the prominent daily, published a new opinion poll taken among French Muslims.²⁰² The poll contrasted notably with media efforts in Britain, in that it clearly distinguished between the traditional *Shariah* guidance calling for acceptance by immigrant Muslims of the laws and customs of non-Muslim lands to which they move, and radical demands for the spread of *Shariah*, rather than, in the UK journalistic style, simply asking the “up and down” or “yes/no” question as to whether Muslims were “for” or “against” *Shariah* in Britain. To emphasise, our research on this issue in Britain found Muslim opinion more closely conforming to think-tank surveys – i.e. showing around 65 percent of British Muslims opposed to introduction of *Shariah* as a separate legal standard.

The poll in *Le Monde des Religions* appears reliable, and is markedly reassuring as to the moderation of the French Islamic majority. The poll found that 60 percent of French Muslims considered themselves both French and Muslim, without perceiving a contradiction between the two, while 22 percent believed themselves to be Muslim first, and 14 percent pronounced themselves French first (four percent declined to answer.) At the same time, 68 percent of respondents said that a strong hostility to Islam exists in France. On the question of *laïcité*, 75 percent expressed their support for it, 17 percent affirmed varying degrees of opposition to it, and eight percent declined to answer. Most important, on the issue of *Shariah*, 75 percent supported the traditional view of *Shariah*: 38 percent said Islamic law does not apply in non-Muslim countries, while 37 percent declared that elements of it could be applied if they were adapted to French law. Only 17 percent claimed that *Shariah* should have jurisdiction in all countries, and eight percent declined to comment.

As in Britain, the existence of overwhelming majorities favoring moderate Islam, and of significant minorities embodying radicalism, may be interpreted differently. One may take comfort that radicals are a minority or become alarmed that they exist at all. But in our view, to expect all Muslims to be moderate is unrealistic. Radical interpretations of Islam have always existed, and in recent times their impact has been aggravated by the financial support of the Wahhabi cult in Saudi Arabia as well as the ideological encouragement of the Ahmadinejad regime in Iran. Radical Islam can, in our view, only be defeated by the mobilisation of authentic Muslim moderates.

French *laïcité* has never been absolute; the French authorities have repeatedly, even under the most secure republican governments, allowed various exemptions from the principle of complete separation of religion and the state. For example, *laïcité* does not apply to France's overseas possessions, or to Alsace-Lorraine, which inherited and still observes German law on state subsidy for three Christian denominations and Judaism. This contrasts with the separation of religion and the state embodied in the U.S. Constitution, which has been interpreted until very recently to forbid any involvement of government with religion, except in prevention of criminal activity under cover of religion, while permitting cooperation with religious charities and accommodation of religious requirements of American military personnel. French *laïcité* in great part reflects the heritage of the French Revolution and of violent political conflicts in the 19th century, which led to the diminution of church power, while U.S. constitutional law was and remains intended to permit the unhindered development of religious life.

Nevertheless, with the growing debate over the place of Islam in French life, the French government decided to facilitate the emergence of a body, the French Council of the Muslim Faith (*Conseil français du culte musulman* – CFCM) as an organisation for liaison with the French authorities. On its face, the creation of the

CFCM appeared to represent a break with *laïcité*, and was so condemned by various non-Muslim commentators. With its inauguration in 2001, after two years of discussion, the CFCM preceded the foundation of the Dutch *Contactorgaan Moslims en Overheid* in 2004 and the German *Koordinationsrat der Muslime* in 2007, but responded to the same need of the non-Muslim authorities for “a single contact telephone number to handle Muslim issues”, and to some extent appeared to influence the creation of its Dutch and German counterparts. In addition, preparations for full operation of the CFCM were accelerated by the terrorist assaults in the U.S. on September 11, 2001.

During the events leading to the full establishment of the CFCM, Dalil Boubakeur stood out for his objections to what he described as a bias in the consultations in favour of fundamentalist representatives, and the threat of a takeover of French Islam by Wahhabis, whose spirit was always considered hostile to that of established *Maghrebi* Islam.²⁰³ As the structuring of the CFCM proceeded, however, rival mosque leaders expressed other anxieties regarding alleged foreign manipulation of the process.²⁰⁴ Fouad Alaoui, a Moroccan national and general secretary of the UOIF, which participated in the talks leading to creation of the CFCM while being aligned with Saudi Arabia, the ECFR, and the Muslim Brotherhood, complained about the involvement of foreign diplomatic representatives in the consultations. Denying that Moroccan diplomats had injected themselves into the mechanism, he charged that Algerians sought to maintain domination over French Islam.

The aforementioned Kamel Kabtane, rector of the Lyon Mosque, stated that Moroccan, Algerian, and Turkish diplomats were all involved in the development of CFCM, and that only Tunisians had stayed out of the proceedings. Threats by Algerian diplomats were also reported, along with complaints about Dr. Boubakeur's Algerian background. Such reproaches, along with accusations of personal

ambition, have been attached to Dr. Boubakeur through much of his recent career. At the time, Algerians formed the plurality of French Muslims, but most mosques were said to be directed by Moroccans.

The CFCM elections were subject to several delays, and the council was provisionally inaugurated in 2002, by then-interior minister Nicolas Sarkozy, who is the current French president, with Dalil Boubakeur placed at its head by direction of the government. Prior to that decision, Dr. Boubakeur had warned that the elections as then conceived would result in a victory for the UOIF. As rector of the Grand Mosque of Paris (GMP), he was loudly criticised for this position.²⁰⁵ But Dr. Boubakeur was joined in his position by Soheib Bencheikh, grand mufti of Marseille, and supported by Sarkozy.²⁰⁶ Boubakeur and Bencheikh have since become recognised as the main moderate Muslim leaders in Western Europe, and both have published major books. Neither participates in the ECFR.

The appointed CFCM leadership included Dr. Boubakeur as its chief, still considered sympathetic to Algeria, with two vice-presidents: Mohammed Bechari, representing the National Federation of Muslims of France (*Fédération nationale des musulmans de France* – FNMF), viewed as pro-Moroccan, and Fouad Alaoui of the UOIF. The unelected CFCM comprised a wider executive of 16 members, with nine representing Muslim federations, five named by 1,500 affiliated mosques, and two outstanding personalities, one of them grand mufti Bencheikh.²⁰⁷ In 2003, voting for the CFCM was completed. In the final results, 15 seats were taken by representatives of Dr. Boubakeur and the “federation” affiliated with his GMP, while the “Moroccan” FNMF gained 20 and the fundamentalist UOIF 19.²⁰⁸ In the period preceding the vote, Dr. Boubakeur published a book of interviews, titled *Non! l’Islam n’est pas une politique (No! Islam Is Not A Political Position)*.²⁰⁹ He continued as president of the CFCM, following the direction of Sarkozy.

Dr. Boubakeur was again named head of the CFCM in 2005, but in May 2008 Dr. Boubakeur and the GMP refused to participate in its new voting cycle. In the third poll, a split from the FNMF, the Rally of Muslims of France (*Rassemblement des musulmans de France* – RMF), also associated with Morocco, received 20 administrative council seats, while the UOIF gained 13, the Coordinating Committee of Turkish Muslims in France (*Comité de coordination des musulmans turcs de France* – CCMTF) obtained four, the FNMF one, and three were designated “independent” or “various”.²¹⁰ Dr. Boubakeur was then replaced as head of the CFCM by Mohammed Moussaoui, of the RMF. CFCM has never advocated introduction of *Shariah* in France, although Dalil Boubakeur provoked criticism from other Muslim moderates when, in 2007, he put forward an allegation of racism against the satirical weekly *Charlie Hebdo* for reprinting the caricatures of the Prophet Muhammad originally published in the Danish daily *Jyllands-Posten*, with some additional works produced by French cartoonists. A letter questioning his attitude on this question was published in the newspaper *Libération*²¹¹ with the signatures of six well-known French Muslim figures, most significantly the political leader Rachid Kaci.

A second-generation French citizen and a Kabyle Amazigh by origin, Kaci is a vociferously free-market oriented member of Sarkozy’s Union for a Popular Movement (*Union pour un Mouvement Populaire* – UMP) and at present a member of the Sarkozy administration. Others who criticised Dr. Boubakeur included the philosopher Abdelwahab Meddeb, also known in the U.S., and the journalist Mohamed Sifaoui. The signatories appealed to Dr. Boubakeur to recall his boycott of the CFCM elections, in which he had denounced ideological Islamism, and to treat the controversy over the Muhammad caricatures in a similar manner. The case against *Charlie Hebdo* resulted in the exculpation of the periodical. A second legal case against *Charlie Hebdo*, in which Dr. Boubakeur once more

supported the complaint, similarly failed in 2008.²¹²

Kaci has written in severe criticism of Sarkozy. In a book titled *The Republic of Cowards (La République des Lâches)*,²¹³ Kaci lashed Sarkozy for his direct involvement in the creation of CFCM, which Kaci charged had favoured the radicals of UOIF and FNMF when it should have restricted their influence. Kaci followed up this polemic with a second book, *Open Letter to Demagogues (Lettre ouverte aux demagogues)*,²¹⁴ in which he referred to the CFCM as a “shipwreck”.

France stands out from the other Western countries in that discussion of the future of Islam has focused on political writings of a high order, directed to a mainly non-Muslim intellectual reading public. Dr. Boubakeur has published several further books, including *The Challenges of Islam (Les Défis de l’Islam)*, a historical review with appendices from classic Islamic poetry and other literature, and, most interestingly, a selection from *Qur’an*, issued in vest-pocket size and titled *The Tolerant Qur’an (le Coran tolérant)*.²¹⁵

Among the French Islamic clergy, Soheib Bencheikh, grand mufti of Marseille, has been yet more eloquent in his opposition to radical Islam and defence of *laïcité*. Bencheikh’s situation is remarkable in that Marseille is a city with a strongly Islamic aspect; a quarter of its population of 825,000+ is Muslim. Marseille is also one of the oldest cities in the western Mediterranean, founded in the 6th century B.C. by Greeks. Its maritime and cosmopolitan nature, along with its old districts filled with narrow streets, make it, like Barcelona in the past, seem more an extension of the North African culture area than a core European city. With Marseille having long been the main gateway for African entry into France, Muslim immigration to the city gives the impression of a natural tidal overflow from the Maghreb more than the kind of economically-motivated settlement seen elsewhere, and often found at the end of long and difficult journeys.

Merchants in the small shops of Marseille’s Old Port (*Vieux-Port*) will often address customers in Arabic without bothering to find out if the visitor speaks the language, and North African banks operate branches on the main Boulevard d’Athènes. But *hijab* and *niqab* are rare, although some men sport long, distinctive Wahhabi beards, and Muslim men from Black Africa are visible in their own traditional robes. Mosques, or rather prayer spaces, are often unmarked, do not have minarets, and are closed except at prayer times. The *Tabligh ud-Dawa* mosque in the Old Port, affiliated with TJ, has a front decorated with modernist star motifs and a minaret, the latter not visible from the street, but is also open only at prayer times, and has an atmosphere of exclusiveness bordering on suspicion of visitors. Identity among Marseille Muslims, as recent arrivals, might seem, to some non-Muslims, a stimulant of radicalism, but the example of Bencheikh shows otherwise.

Bencheikh’s 1998 volume, *Marianne and the Prophet: Islam in Secular France (Marianne et le Prophète: L’Islam dans la France laïque)*²¹⁶ takes its title from the female figure that officially symbolises the French Republic. Although now a decade old, it is a brilliant, well-founded and even inspiring handbook of the ideological divisions within and broad problems facing French Islam, including the manoeuvres of UOIF, FNMF, Dr. Boubakeur, and TJ. In a minor victory for transparency, Boubakeur and Bencheikh alike refer to Saudi-financed fundamentalists as “Wahhabis”, rather than following the politically-correct Western academic habit of granting the bogus title “Salafi” to the extremists. In this way, they reflect reality: the global majority of anti-radical Muslims call the Saudi agents “Wahhabis”, not “Salafis”. The very existence of a volume like *Marianne et le Prophète*, which became a bestseller as a French paperback, illustrates the advanced nature of French Islam when compared with its other Western European rivals; we may say that while British Islam is intellectually the lowest in intellectual quality in

Western Europe (terrorism issues aside), French Islam stands highest.

Yet outstanding figures like Dr. Boubakeur and Bencheikh are seldom invited to international academic or clerical conclaves on the future of Islam, and, as noted, do not participate in the ECFR, the cénacle of Al-Qaradawi, although the latter has managed to extend its tentacles into the weakened environment of Balkan Islam. This provides a lesson: the Islam of Bencheikh and that of, to mention its European “pop star”, Tariq Ramadan, the ally of Al-Qaradawi, represent two clear opposites. It remains to be seen which will, finally, enjoy greater influence in European Islam. As noted further here, Ramadan represents an especially retrograde position on the situation of women.

Bencheikh’s volume underscores many points we have made in this survey. He not only rejects the importation of *Shariah* as a separate legal standard for Muslims in France, his conception of *laïcité* is much closer to the non-interference of the state with religion in American constitutional doctrine (“neutrality”) than to the appearance of militant irreligion often seen in the French practice of “separation” of the two. He expresses regret that French public discourse too often stresses the latter rather than the former, since he interprets *laïcité* as a protection of religion from government interference.

Bencheikh offers a sharply critical review of the political development of French Muslim leadership, in the period anterior to the emergence of CFCM. He blames the division between such groups as the GMP in its then-form, the UOIF, the FMNF, and the French branch of TJ more on personal ambition than on theological, juristic, or political differences. We judge that this analysis is now less apt than it was 10 years ago, with the intervening rise in Saudi financing of radicalism, the sharpening of rivalries between Wahhabis and their opponents, the events of September 11, 2001 and their aftermath, and the growth of the Muslim Brotherhood.

A peculiar belief exists among many non-

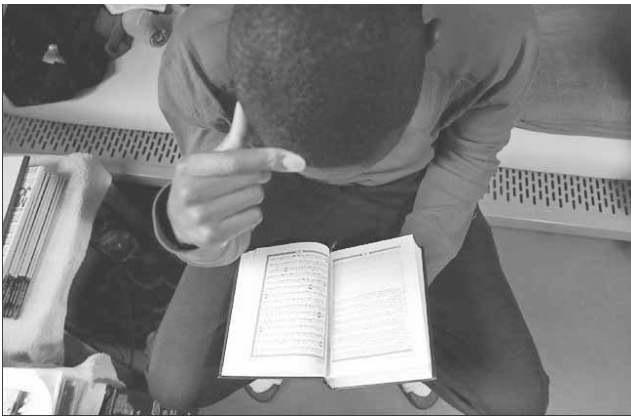
Muslims that Muslims are well-educated in their religion and that, in particular, radicals have been deeply indoctrinated in the requirements of their extremist interpretation. But Bencheikh declares, “the Muslims of France, in their quasi-totality, have a limited comprehension of their religion, because of a lack of access to religious education”. He partially blames this situation on the domination of academic specialists in French intellectual life. But he goes on to condemn excessive simplification, which has created a situation in which “only an archaic version of Islamic law has become accessible to all, coherent in itself and offering a global vision of things”, but which may, in its attempted application, produce “madness”. He affirms, “today human rights, religious freedom, and *laïcité* are the most consensual principles, and alone in being capable of managing the whole of human society, as pluralistic as it is”.

(3) Criminal aspects

French public and expert opinion, especially among non-Muslims, has reproduced the anxiety common in the British and Dutch media about the role of Islamist extremism in crime and within prisons. We observe that such worry is based on conditions also present in the U.S., but we find that radical Islam as a pathology supporting common crime and gangs, or terrorism *per se*, and extremist infiltration of correctional institutions, gains more intensive attention in Western Europe than in the U.S.

As in Britain and the Netherlands, information on the intersection of radical Islam, with its deviant interpretation of *Shariah* as a license for lawbreaking in non-Muslim lands, and common crime, cannot be directly investigated without special access to prisons, which CIP lacks. Nevertheless, significant documentation has been published in France – more in the specialist and penological manner of the Netherlands than in accord with the sensationalist habits of British media.

In 2004, the French sociologist Farhad Khosrokhavar, a distinguished author on Iranian



Muslim prisoner studies Qur'an in jail.

topics, published *Islam in Prison (L'islam dans les prisons)*,²¹⁷ a thorough study of Muslims incarcerated in France. Some of his findings were counter-intuitive to the presumptions of Western media. For example, he declared “In prison, the great majority of those detained avoid the Islamists, whom they often call the ‘bearded,’ out of fear of the penal authorities associating them with these dangerous individuals, as well as because of their own reservations on the subject of this fundamentalist or extremist version of Islam. Avoiding the ‘bearded’ can begin very quickly”. Khosrokhavar quoted an interviewee, Kamel, a French *Maghrebi* aged 34, who had “escaped” an attempt to recruit him into the “Roubaix gang” of terrorists. In the vicinity of the depressed northern city of Lille, the “Roubaix gang” committed an armed robbery and bombing in 1996. Four of the group, who were mainly Algerian and linked to Al-Qaida, were killed in a shootout with police, and some dozens more were later tried in French courts. The group’s head, a convert to Islam named Lionel Dumont, was sentenced to 30 years imprisonment in France in 2003.²¹⁸

Kamel told Khosrokhavar that the group, including Dumont himself, had attempted to enlist him at a mosque in Roubaix, where he had gone to pray. He ascribed their approach to him as follows: “I was unmarried, which is a plus for them. They wanted me to place bombs... Their arguments were ‘we have to kill the *yahud* [Jews] and the *kuffar* [disbelievers].’ Fortunately my father felt they were not clean. He told me to stop



Muslim prisoners share a cell in Fresnes

going there and to pray for myself and my life... They sent others to commit various illegal acts in Afghanistan”.

Other inmates who spoke with Khosrokhavar were more extreme. One named Omar blamed his bad situation in France on victimisation of Muslims worldwide, expressing hatred of America, Israel, and Russia. Omar stated, “I am ill, I cannot have a child, marriage does not interest me, love leaves me cold as does compassion... Everywhere is injustice. People must waken. Bin Laden woke them up on September 11”. Nevertheless, according to Khosrokhavar, “Prisoners are in fact rather numerous in declaring themselves little interested in a thundering return to religion. Most of them are even somewhat secular (*laïcs*)”.

Prison activities by radical imams appear to be as problematical as in the U.S., UK, and, as we shall see in the following study, Spain. Khosrokhavar noted in 2003 that French prisons then counted 918 chaplains (*aumôniers*), 323 paid as full-time employees, with 272 part-time, and 411 auxiliary chaplains. The system included 513 Catholic priests (181 paid for their work); 267 Protestants (82 subsidised), and only 69 Muslims, of which 30 were monetarily compensated. Three Orthodox Christians and two Buddhists similarly served, although no figures were offered on Jewish personnel. Khosrokhavar stated that a lack of imams was an obstacle in the struggle against radical Islam, because “to the degree that the detained have no access to the imam – and many among them complain about

this – they tend to confide in whoever comes to them first... It is thus that often, radicals and fundamentalists become their interlocutors”. Khosrokhavar has more recently estimated that half of French convicts are Muslim, which far exceeds the 10 percent share of the general population we credit.

At the end of September 2008 the European Union held a seminar in France on this topic, at which a manual on radical Islam for guidance of correctional officers, jointly developed by the French, German, and Austrian governments, was distributed.²¹⁹ Journalistic reportage warned that radicalism could support recruitment for terrorism, and stated that France had 1,155 terror suspects behind bars, with more than 95 percent serving sentences and the remainder awaiting trial. French arrests of Islamist radicals began in earnest in 1995, during the “second Algerian war”, when, as in the Roubaix affair, terrorists on the offensive in North Africa used France as a rearguard.

But sources on these problems are contradictory. French Interior Minister Michele Alliot-Marie estimated the number of “hard-core” Muslim extremists in French jails at only 100, and National Prison Administration Director Claude d’Harcourt lowered the figure to 80.

The EU manual on radical Islam in prisons, which is not intended for public release and which we have as yet been unable to examine, identifies such evidence of radicalisation as growth of the distinctive long and specially-trimmed Wahhabi beard, refusal of social mixing with non-Muslims (including in showers), and acquisition of radical literature. Like France, other EU countries show Muslim incarceration rates to be disproportionately larger than the total national census figures. In a close parallel to problems seen in the U.S., it is currently estimated, based on numbers updated from Khosrokhavar’s survey in 2003, that the country’s recent total of 117 Muslim prison chaplains (out of 1,100 chaplains serving in 195 institutions, housing 63,000 inmates) are now almost entirely radicals who have appeared to fill

a gap caused by previous neglect, indicated by Khosrokhavar, of the need for moderate Muslim clerics in prison work. But Moulay el Hassan Alaoui-Talibi, who is in charge of Muslim chaplains in France, has warned in a moderate spirit that radicals may avoid detection by not growing Wahhabi beards or evincing other signifiers of radicalism.

(4) Approach to Women

The internationally-reported debate over the headscarf, *hijab*, *niqab*, and covering of Muslim women in general has been the main item on the public agenda regarding treatment and abuse of Muslim women in France. In the previously-discussed *Le Monde des Religions* poll of November-December 2008, 79 percent of Muslims who responded expressed their lack of agreement with the suggestion that wives should submit to their husbands, and 70 percent supported the legal ban on polygamy. Still, at the same time 70 percent affirmed their support for “the veil”. This dissonance may in some part reflect the argument among many Muslims that women’s covering is a voluntary act and a marker of identity rather than faith, while we are critical of the exploitation of *hijab* in the interest of separatism and of a simplification of religion leading to fundamentalism. Among Berber women faces are almost never covered, while Berber men, who work outside in windy desert environments, may protect their faces with cloth typically dyed blue; long usage of such a mask leaves a tint on the flesh that has led Berbers to be called “the blue men”.

In 2003, a fresh source of controversy, also paralleling a similar issue in the U.S., appeared when then-minister of the interior Sarkozy alleged²²⁰ that the UOIF would demand that Muslim women be granted the right to wear the “veil” when photographed for issuance of national identity cards, which are required in France. The UOIF, however, disclaimed any such intention. In the U.S., a brief attempt to establish permission for Muslim women to obtain driver’s licences with photographs showing their faces

covered ended with repudiation of the proposal.

French Muslims were confronted in September 2008 by a project for criminalisation of all Islamic covering of women in public institutions and on the street, with punishment by a fine of €15,000 and a jail term of two months. The proposal was introduced²²¹ by Jacques Myard, a deputy in Sarkozy's party representing Yvelines, a *département* near Paris. Myard was criticised as an ultra-rightist for this scheme, which appeared impracticable no less than extraordinary, and seemed guaranteed to produce a major new difficulty in relations between French Muslims and non-Muslims.

So-called "honour" murder has apparently been rare in France. A 17-year old girl, Sohane Benziane,²²² a Kabyle Amazigh, was burned alive in 2002 in a cellar at Vitry-sur-Seine, considered a *banlieue* community, by her former boyfriend, Jamal Derrar, 22, and an accomplice, Tony Rocca, 23. The crime scandalised the entire country, and Derrar and Rocca received prison terms. Derrar was sentenced to 25 years and ordered to pay €140,000 to the victim's family, while Rocca received ten years in prison, in 2007. But the death of Sohane, as she was known to the whole population, stimulated mass protest by French Muslim women, led by Sohane's sister Kahina Benziane, among others. On March 8, 2003 (International Women's Day), some 30,000 Muslim women marched against gang rape and other abuses suffered by their peers living in the *banlieue* and especially in housing projects.²²³ The movement, which adopted the slogan "*Ni Putes Ni Soumises*" ("Neither Whores Nor Submissives") mainly focused on gang rape, a criminal offence that could not reasonably be associated with the faith of Islam, except for its prevalence among disaffected youth in the *banlieue*. But the protest was extended to opposition of all forms of masculine aggression present in the *banlieue*. The movement did not engage with *Shariah per se*. A *Maghrebi* woman, Fadela Amara, published a short book explaining the background, experience, and aims of the

protestors, entitled *Ni Putes Ni Soumises*.²²⁴ Amara was later appointed a junior minister for urban affairs in the Sarkozy presidential administration.

France had also been shocked in 2002 when Hani Ramadan, brother of the academic Tariq Ramadan, published an essay in *Le Monde*²²⁵ justifying stoning as a punishment for adultery. Stoning is never mentioned in *Qur'an* but has been assimilated into *Shariah*. The article led to Hani Ramadan's suspension and then his dismissal from his job as a high school teacher in Switzerland, where he and his brother were born, on grounds of violation of his professional status as a schoolteacher in promoting violation of human rights, as well as firing from his job as imam at the Islamic Centre of Geneva. Swiss law prohibits public school instructors from also exercising religious responsibilities.²²⁶

In 2004, Abd al-Qadr Bouziane, an Algerian-born, 52-year old Wahhabi imam working at the Al-Furqan mosque in the town of Vénissieux near Lyon in eastern France, told a local periodical, *Lyon Mag*, that he favoured polygamy, believed Muslim women were forbidden to work with men or to teach male children, and declared that Muslim husbands were justified in beating their wives for adultery.²²⁷ Bouziane, who had two wives living in France with him, was considered the main Wahhabi figure in the Lyon region. He was arrested and expelled from France, an action supported by then-CFCM president Boubakeur, who described Bouziane as a "self-proclaimed imam".

Soheib Bencheikh commented even more harshly, declaring, "What is occurring in France is very serious. It is enough for someone to speak a little Arabic to proclaim himself an Imam, a specialist in Islam. These imams, because of pressure, intimidation, and occasionally violence impose their tribal and clannish interpretation of religion. But because of their attitudes, the politicians have favored these men. Thus the moderate Muslims – the great majority in France – do not see themselves in these Islamists.

Unfortunately, the moderates have no place to express themselves because the most extremist comments get the most media attention”.²²⁸

The expulsion of Bouziane was based on a judicial order issued two months before the interview and originating with his suspected association with terrorist conspirators, including issuance of a *fatwa* supporting suicide terrorism in Iraq. But his status became more urgent after his comments on the status of women. In a strange development, Jean-Marie Le Pen, leader of the ultrarightist Front National (FN), considered an extreme Islamophobe, condemned the expulsion of Bouziane²²⁹ for what appeared to be no more than a “crime of opinion”, as delivered in his *Lyon Mag* interview. Bouziane’s involvement with terrorist activity or threat to the interests of the French state could not be proven, and he then returned to the country at state expense. A court later found that the journalists at *Lyon Mag* had engaged in selective editing of the interview.²³⁰

FGM, known in French as “excision” and mainly practiced by Black Africans, has allegedly declined markedly in France. The main reason for this may be that France is one of few countries in the world to actively prosecute perpetrators of this atrocious custom. A 1999 trial charged 30 defendants, including Hawa Greou, the woman who performed the “operation”. Defence lawyers claimed that the accused did not speak French or realise that “excision” is illegal in France. Parents from Mali were sent to jail for permitting “excision” in 2002 and 2004.²³¹ In 2008 a newspaper report claimed 1,000 women were at risk of “excision” in the central-west French region of Poitou-Charentes. Their countries of origin were said to be Egypt, which has experienced a renewed influence of the Shafi’i school of *Shariah* that requires FGM, as well as the Black African countries of Bénin, Burkina Faso, Côte-d’Ivoire, Sénégal and Togo.²³²

As 2008 ended, French opinion was convulsed by a case in which state institutionalisation of *Shariah* and ill-treatment of women were apparently combined. In Lille, a

Moroccan-born man naturalised as a French citizen, and a French-born woman, who have not been named in international press coverage, were married.²³³ But the husband repudiated his wife on their wedding night, because of the woman’s lack of virginity. In April 2008, a high court in Lille granted the man’s petition for annulment on grounds that he legitimately expected his bride to be a virgin. Rachida Dati, a woman of *Maghrebi* origin appointed to serve in Sarkozy’s government, upheld the ruling, stating that Islam was not involved in the matter. And Dati was nearly correct, in that *Shariah* values other female qualities, including religiosity “which takes precedence over anything else”, intelligence, a good character and disposition, fertility, and a good family, above virginity.²³⁴ French non-Muslim opinion, however, responded to the case as an imposition of *Shariah*, and Dati then reversed herself, declaring the annulment annulled and the marriage legal. This resulted in a wave of anti-Islamic rhetoric, attacks on Muslim monuments, and widespread criticism of Dati.

As of May 1, 2009 the Muslim couple in Lille had not disclosed how they would proceed in their difficult situation.

Forced marriage is also an issue in France. In March 2006, the French parliament adopted a law against domestic abuse that was also intended to obstruct forced marriages, to which, according to a governmental source, 70,000 French girls were vulnerable.²³⁵ The same figure of 70,000 potential victims had been cited in a 2004 investigation of forced marriage among *Maghrebi* and Turkish girls in France; on that occasion, Hadda Zouareg, of the women’s rights group Safia, argued that the custom was not linked to Islam. She eloquently summarised the intention of many forced marriages: “The parents are afraid that their children will be lost in the Western world. When a girl wants to go out in public on her own, they threaten her with marriage. They are afraid their daughters will sleep with whoever they wish, lose their virginity before marriage, or bear children out of wedlock.

Further, some girls now want to marry non-Muslims, which is permitted to Moroccans living in Morocco!”²³⁶

“They threaten her with marriage” (“*la menaçant d’un mariage*”) is a phrase that incomparably sums up the atrocious situation in which many young Muslim women in Western Europe now find themselves. This problem cannot be distanced from that of the abdication of responsibility by Muslim religious leaders who should act to strengthen marriage and families through mutual love, respect, stability, and legality between spouses – as dictated by moderate Islam.

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8. Case Study: Spain



Introduction

Spain has a Muslim community of more than one million, or two percent out of a total population of about 45 million people in 2008. A reliable if controversial study published by a Catholic priest, José Luis Sánchez Nogales, *El islam en la España actual*,²³⁷ counted the constituent elements of Spanish Islam in 2005 as follows:

- 357,000 born in Spain or descended from families of Spanish nationality, as well as residents of the two Spanish-ruled cities on the Moroccan coast, Ceuta and Melilla, and nationalised subjects;
- 335,000 born in Morocco and 24,000 Algerians;
- 27,000 Sénégalèse and Gambians;
- 18,000 Pakistanis;
- 40,000 others.

Spain comprises 17 autonomous regions and two autonomous overseas cities (the aforementioned Ceuta and Melilla). The Spanish *autonomías* are roughly equivalent to U.S. and German states in their political, educational, taxing, and similar powers, except that several important

Spanish autonomous regions also have official languages distinct from Castilian, the national idiom, and the *autonomías* are not equal in status. Catalonia, the Basque Country or Euzkadi, and Galicia – all with their own linguistic identities – are smaller in size but have much greater discretionary authority than, for example Andalusia.

The largest concentration of Spanish Muslims is found in Catalonia, the historic industrial and commercial centre of the country, with about 250,000 Muslims in 2006. Muslim immigration first attracted Spanish attention in Catalonia in the late 1970s, when Moroccans and Black Africans were encouraged to come to work in agriculture. The remaining major areas of Muslim residence are Madrid, the national capital and a growing economic power, with some 200,000; the southern autonomous region of Andalusia (176,000), an agricultural area with close geographical proximity to the strait of Gibraltar and North Africa, and Valencia (115,000), also with major agricultural assets, as well as significant industrial and commercial development, and a shortage of local labor.²³⁸

In 2006, Spain had only 12 full-sized mosques, but 332 prayer spaces.²³⁹

Of the leading countries of Western Europe, Spain is that in which the Islamic past has the greatest influence. In sum, Islam is nothing new in Spain. The Muslim invasion of Spain began in 711 C.E. and *Maghrebi* rule over parts of the country did not end until 1492. The designation of the Spanish Muslim dominions as *Al-Andalus* survives in the name of Andalusia. An Islamic element in Spain's main cultural heritage is powerful and undeniable; Spanish Islamic philosophy and mysticism deeply marked



Mosque, Gran Via, Barcelona



La Mezquita, the Great Mosque of Córdoba



The Mosque, Granada



Muslims outside the Assalam Mosque, Málaga (© Sochor)

Christianity in the country, from interchanges between the differing religious cultures in *Al-Andalus* to the persistence of Muslim literary inspiration in the reconquered and re-Christianised provinces. Muslim believers continued to reside in the country under special legal agreements until their final expulsion in 1614.²⁴⁰ Descendants of converted Muslims remained in some areas of Spain, mainly in the east. The large Muslim presence in Catalonia today represents an apparent paradox, since that principality was the first territory recovered from the Muslims, by the Franks in 801, when it was designated the *Marca Hispanica* or Spanish March. (Asturias was the only Iberian region never conquered by Muslims.) The close links between Catalonia and the rest of Europe that began at the time, in contrast with the rest of the Iberian peninsula, may also be credited, along with maritime trade along the Western Mediterranean littoral, to Catalan entrepreneurial dynamism.

Although its frontier with Spain is also maritime, the role of Morocco as a neighbour has consistently affected Spanish history, long after the expulsions of Muslims. Spain, having lost all its American and Pacific Ocean possessions by the end of the 19th century, attempted to regain its position as a colonial power by occupying northern Morocco in the first third of the 20th – an enterprise that, along with Spanish rule in the former Spanish Sahara and present-day Equatorial Guinea, continued until the 1970s. Thousands of combatants in native Moroccan colonial levies (*tabores*) played an important psychological role in the ranks of *Generalísimo* Francisco Franco's military rebellion against the second Spanish Republic, during the civil war of 1936-39. Moroccan Islamic authorities supported their action by declaring the struggle against the Republic a *jihād* against irreligion, since the Republic was politically and socially secular. Although their story is less well-known, around

1,000 Moroccans and Algerians also fought for the Republicans during the Spanish civil war.²⁴¹ Throughout the civil war, radical elements on the Republican side argued that a declaration of the liberation of Morocco from Spanish administration would support the anti-Franco cause by undermining the loyalty of the *tabores*. But such a measure would have met with considerable dismay by the French government, which controlled the rest of Morocco, and the international powers then administering Tangier.

In addition, however, much leftist propaganda about the role of the Moroccans in Franco's ranks assumed a racist character that today would be called Islamophobic. A Palestinian Arab Communist, Nayati Sidki,²⁴² present in Moscow when the Spanish war began, was sent by the Soviets to Spain to conduct propaganda directed at the Moroccans, and preached, with visible success as reported by the Soviet journalist Mikhail Koltsov, that those serving Franco were enemies of Islam. Sidki was, however, treated badly by the Spanish Communist leaders, who preferred to see all Muslims as brethren of Franco's cohorts. Sidki left Spain after realising that only the Spanish anarchists – who viewed the Islamic global *umma* as a universal area of rebellion against oppression – and the anti-Stalinist Workers Party of Marxist Unification (*Partit Obrer d'Unificació Marxista* – POUM), in the militias of which George Orwell served, as well as the Catalan nationalist left, supported the decolonisation of Spanish Morocco. The latter outcome did not take place until 1956, with the achievement of Moroccan sovereignty and conclusion of French control. Spanish rightist sympathy for the Francoist Moroccans, as reflected in government subsidies for high-level academic studies of Islam, as well as, until recently, leftist bias against Moroccans, remained significant motifs in Spanish life long after the conclusion of the civil war. Working-class resentment of Muslim immigrants as competitors for employment was also visible, according to representatives of the Spanish Islamic community, although, because it is

friendly to the claims of immigrants, Spanish Muslims vote overwhelmingly for the Spanish Socialist Party (*Partido Socialista Obrero Español* – PSOE) currently led by president (prime minister) José Luis Rodríguez Zapatero.

Spain occupies a number of small territories on the Moroccan coast, mainly the cities of Ceuta and Melilla, of which Ceuta has 30,000 Muslim inhabitants (37 percent of its population) while Melilla has 33,000 (39 percent). Ceuta and Melilla, which are claimed by Morocco, represent the territories with the proportionately largest Muslim demographic shares in the European Community. Spain, nevertheless, enjoys good relations across the Strait, between Spanish king Juan Carlos and Moroccan king Mohammed VI. Morocco, Ceuta, and Melilla all must contend with the attempts of foreign migrants to utilise their territories for travel by boat to Spain, seeking access to the European mainland.

The first major Islamist terrorist action in the West following the atrocities of September 11, 2001 came on March 11, 2004, when a series of explosions struck the metro system of Madrid. In the carnage, 192 people were killed and some 1,800 were injured. The assault was organised by a group of Moroccan, Algerian, and Syrian Muslims.

The 3/11 crime, as it came to be known, had a direct impact on Spanish foreign policy and caused long-term, demoralising problems in Spanish domestic politics. The explosions occurred only three days before voting in Spanish national elections, which many citizens and foreign observers expected would be won by the conservative Popular Party (*Partido Popular* – PP) of José María Aznar. Aznar and the PP had committed the Spanish Army to continued participation in the U.S.-led intervention in Afghanistan and Iraq. But the Iraq war was unpopular in Spain, which possesses the most profound antimilitarist tradition in Europe. The Spanish public interpreted the terrorist bombings as an attempt to convince Spain that its troops should leave Iraq.

Aznar responded to the horrific events in a confused manner, attempting to divert attention away from Islamist rage and to blame the deaths on Basque terrorism. Spanish voters repudiated this posture and, reflecting a rapid shift in public opinion, handed an electoral victory to the opposition Socialists under Zapatero, who five weeks after the election, on April 19, 2004, withdrew the Spanish contingent from Iraq.

The 3/11 atrocities have left a deep, unhealed wound in Spanish political life. Aznar and the PP have continued to implicitly blame the events on Basque radicals and their domestic leftist allies, in a manner that fostered conspiracy theories, even after the trial of 28 accused ended in 2007 with guilty verdicts against 21 defendants, most of them *Maghrebis*. With the embitterment and deepening of polarisation in Spanish politics, Spain has, after the U.S., suffered the most damage to its internal cohesion from Islamist aggression.

Nevertheless, Spain has not experienced a rise in fear of Islam. It is difficult to explain this absence, given the chaos and even political disgrace that Islamist radicals have sown in the country.

The Historical Background: Emergence of Shariah as an Issue in Spain

Public advocacy for establishment of *Shariah* as a legal standard is, as in France, almost unknown in Spain, in the latter case probably because of the overwhelming presence of Catholic culture in social affairs. In Spain proposals for new religious customs and regulations are rare and put forward with delicacy. As in the Netherlands and France, *Shariah* is also problematical among local Muslims in that, historically, Rif Berbers/Amazigh, whose actual numbers are unknown but whose representatives claim to account for half of the Moroccan Muslims in Spain, may frequently reject Islamic law in favor of customary law.

The CIP Survey of Shariah Agitation in Spain

The CIP field survey of Spain was completed in

November-December 2008 by Stephen Suleyman Schwartz. The investigation was easier to carry out than in France, because of prior CIP contact with Spanish Muslim leaders. Schwartz's command of Catalan and Spanish and knowledge of the main Spanish cities, Barcelona and Madrid, allowed *Case Study: Spain* to be conducted efficiently.

(1) Family/schooling

Spanish Muslim children are overwhelmingly educated in state and Catholic schools, aside from those enrolled in a very small number of private Arab-sponsored institutions. A large and elaborate Saudi-financed mosque in Madrid, officially titled the Islamic Cultural Centre (*Centro Cultural islámico*), was inaugurated in 2001 and nicknamed the "M-30 mosque" because of its location near a major motorway. Its Saudi Academy of Madrid (*Colegio Saudi de Madrid – colegio* is one of several titles for a secondary school in the Hispanic world) reportedly educated 350 pupils in 2006. That year, the Saudi authorities declared their intention to purchase Catholic schools and similar facilities for reopening as Islamic schools, but this proposal has yet to produce a practical outcome.²⁴³ In addition, Libya maintains the Al-Fateh Arab School of Madrid (*Escuela El Fateh Árabe de Madrid*) and Iraq supports the Iraqi School of Madrid (*Escuela Iraqui en Madrid*). All these institutions mainly serve the children of diplomats.

Recent Spanish law provides for Islamic religious instruction to be offered to Muslim children in state schools, but implementation of this proposal has been slow. In the 2005-06 school year, separate Muslim religious education was furnished to students in Ceuta, Melilla, Andalusia, and Aragon; at the end of 2006, the same instruction was offered in the Basque Country.²⁴⁴

In 2008, Ernest Maragall, minister (*conseller*) of education in the *Generalitat de Catalunya*, the autonomous government of the Catalan principality, announced the establishment of four special schools for the children of

immigrants to open at the beginning of the school term in September. Pilot projects had been created in the previous year, officially titled Educational Welcome Spaces (*Espais de Benvinguda Educativa* – EBE) but generally known as “welcome centres” (*centres d’acollida*) with one each in the towns of Reus, in a winegrowing region with a high demand for immigrant labor, and Vich, another agricultural centre. The EBE in Reus accommodated 1,080 students in 2007-08 and that in Vich accepted 400. The EBE were to be structured to accommodate different levels of need, and would be open throughout the year, without a summer break, to better promote integration through learning Catalan.

The 2008 plan called for a second and third such establishment in Reus, but the concept was denounced by the Catalan branch of the socialist-led Teachers Union (*Federació de Treballadors d’Ensenyament d’UGT de Catalunya*) as “discriminatory” and “leading to segregation”.²⁴⁵ Alejandro Font de Mora, the conservative (Popular Party) *conseller* of education in the *Generalitat Valenciana*, governing the Catalan-speaking *autonomia* of Valencia, condemned the Catalanian plan as “illegal” and supporting the creation of “ghettos”. Other critics noted that the EBE were developed outside the regular school system and alleged that they represented a violation of Spanish law, under which children with learning problems must receive special assistance while attending a regular course of study. The Spanish national ministry of education announced that it would assure that the role of the EBE would be restricted and that education would generally remain inclusive. But the Catalan *Generalitat* has been notable for its initiatives independent of national law, and local authorities have been assiduous in promoting study of Catalan by immigrants, through leaflets distributed in Arabic, Urdu, Tamazight (Berber), and Chinese, as well as Spanish and English.²⁴⁶

As such efforts indicate, the immigrant population in Spain, which accounts for some five million or nine percent of the overall population,

is extremely diverse. The million Muslims in Spain comprise only 20 percent of immigrants, with much greater representation by Latin Americans, Europeans, and others. A monthly periodical issued for the immigrant readership, *Toumaï* (a Chadian term meaning “hope of life”) illustrated this multicultural situation in a recent issue. The magazine advertised “Club Toumaï” trips to Morocco for the end of Ramadan, but on the very next page began a feature article on the practices of black magic and fortune-telling among Latin American and other immigrants. Such practices are banned in Islam, although fortune-telling by local clerics is fairly widespread in the Muslim world; but such a *mélange* would not appear in the Dutch, French, or other specialty periodicals for immigrants (*MZine*, *Le Courrier de L’Atlas*) we have examined.

With the accession of Romania to the European Union, immigrants from that country, whose native language is a Romance one and who therefore find it easy to learn Spanish and Catalan, the two main languages of Spain, have also appeared in numbers, and *Toumaï*, with its name derived from sub-Saharan Africa, includes articles in Romanian and advertisements in Bulgarian (the language of another recent EU member) as well as Spanish and Arabic.²⁴⁷

(2) Institutionalisation of *Shariah* by non-Muslim governments (“Parallel *Shariah*”)

Although it is overwhelmingly Catholic, Spain is officially a secular state, based on a constitutional doctrine loosely known as “deconfessionalisation” (“*desconfesionalización*”). But the Spanish Socialists and other left or secularist parties have never consistently succeeded in establishing a standard comparable to French *laïcité*. Spain is also one of four European non-Muslim countries that have state recognition of Islam as a faith, since the French CFCM is a non-governmental body, and organisations in the UK, Germany, and the Netherlands also lack official standing. The Christian country with the longest history of official representation for Islam is Russia, where a Muslim board of religious deputies was

established by Empress Catherine II in 1788. Islam was granted official standing in Austria in 1878, with the Habsburg occupation of Bosnia-Herzegovina; in Croatia, then a Habsburg dominion, in 1916; and in Spain in 1992 – in the latter case, on the 500th anniversary of fall of the Granada, the last Muslim-ruled redoubt in the peninsula. In releasing its first collection of *fatwas*, the ECFR directed by Yusuf Al-Qaradawi praised Spain, along with Belgium, Denmark, and Hungary, as European countries that have “recognised the Muslim religion and the rights of Muslims”.²⁴⁸

Relations between the Spanish government and Muslims are administered by the Islamic Commission of Spain (*Comisión Islámica de España* – CIE), which signed an Accord of Cooperation (*Acuerdo de Cooperación*) with the Spanish state. The CIE comprises two main tendencies. The first trend in CIE is the Union of Islamic Communities of Spain (*Unión de Comunidades Islámicas de España* – UCIDE), founded by Riay Tatory, a Syrian associated with the



President and Secretary General of the *Unión de Comunidades Islámicas de España*: Riay Tatory and Helal Abboshi

the Muslim Brotherhood (MB) and formerly involved in the Bilal Mosque and Islamic Centre of Aachen, an institution that, on balance, merits a serious historical investigation (see *Case Study: Germany*). Tatory, a Madrid-based cleric, is one of two joint presidents of CIE. Our interviewees informed us that UCIDE, with some 200 affiliated prayer spaces, avoids the Moroccan *ulema* in Spain. As in the Netherlands, Moroccan Muslim clerics in Spain have been criticised for their subordination to an extraterritorial authority and their imposition on Berber believers.

In the past, the second major component of the CIE was the Spanish Federation of Islamic Religious Bodies (*Federación Española de las Entidades Religiosas Islámicas* – FEERI), an

offshoot from UCIDE. FEERI was described to CIP in local interviews as under Saudi and Moroccan control, with a significant component aligned with the MB. It claims some 50 affiliated mosques, but many of these appear to be non-functioning, reducing its probable membership to 20 or 30, some of which are one-person “communities”. Its current representative as vice-president in the CIE is Félix (Mohamad Amin) Herrero, a cleric from Málaga. The subject of Wahhabism has attracted attention with, for example, a report that from 2004 to 2008 the number of Wahhabi prayer spaces in Catalonia had doubled, from 15 to 30. One Saudi-lining imam, however, Said Hamduni in Reus, claimed the figure was closer to 50.²⁴⁹

Spanish Muslim congregations could affiliate with the CIE through either the UCIDE or FEERI, or directly, so long as they were listed in the government’s Registry of Religious Entities (*Registro de Entidades Religiosas* – RER). A third group, previously unrepresented in the CIE, is the Muslim Federation of Spain (*Federación Musulmana de España* – FEME). FEME’s president is a Moroccan Berber by origin, Ayad Tachfine Elharchi. FEME, which includes 41 mosques, is mainly composed of Pakistanis, Bangladeshis, Shia Muslims, and Sufi (spiritual) groups; some of its members were formerly involved in FEERI, and it has replaced the latter as the second most important Muslim organisation in Spain.

In 2009, plans for reform of CIE were underway, with a promise of new regulations and participation of FEME and of regional Muslim federations in place of the two-organisation model.

The origin of the regulation of state-Muslim relations by the CIE has been described by Àlex Seglers Gómez-Quintero, a professor of ecclesiastical law at the University of Barcelona, as follows: “It is evident that the CIE was not born as the fruit of an imposition by the Spanish political power; nevertheless, the need to consolidate it as unique interlocutor has ended with its conversion into a kind of artificial

church, parallel to the Catholic [church]... To force the artificial creation of a religious actor that unifies Islam seems *a priori* easier for the State, even more if the object is to recentralise the management of religious policy. But to reproduce the bilateral scheme that serves the Catholic Church does not take into account the plural and heterogeneous reality of Islam”.²⁵⁰ Here we see again the syndrome of seeking a “single” contact or “telephone number” for communication with the Muslims, visible in Germany, the Netherlands, and France, which we believe has, in all these cases, worked to the advantage of powerful fundamentalist or neofundamentalist elements.

But Germany, the Netherlands, and France feature religious cultures in which Catholics and Protestants or secularists have maintained a general parity of power, and have accepted principles of mutual respect among themselves. Spain has concluded agreements similar to that governing CIE, with the Federation of Evangelical Religious Entities of Spain (*Federación de Entidades Religiosas Evangélicas de España* – FEREDE) and the Federation of Israelite Communities of Spain (*Federación de Comunidades Israelitas de España* – FCIE). But given the immense Catholic majority in Spain, the erection of an Islamic structure as an official religious institution alongside the Catholic hierarchy gives an unmistakable impression that Islam seeks to impinge upon and usurp the status of the established religion of the country. Although this is not a *Shariah* issue *per se*, a “parallel Islamic church” alongside Spanish Catholicism is not very different, in the minds of many non-Muslims, from the conception of “parallel *Shariah*” as we have described it. Seglers also pointed to the distinction between the long historical evolution that produced the Catholic hierarchy as it now exists, and the *ad hoc* creation of the CIE to serve as a signatory of the Accord of Cooperation.

Seglers notes a peculiar gap in the administration of the RER, in its definition of

religious communities permitted to register with it. To avoid the penetration of Spain by “new religions”, i.e. marginal, esoteric and personal “cults” (better known in Europe as “sects”), religious bodies are required to demonstrate their adherence to a “universal religious phenomenology” shared by all religions: these include a doctrine belonging to the particular faith, “which expresses the religious beliefs that are professed and which are intended to be offered to others”, a liturgy “which brings together the rites and ceremonies constituting the cult”, locations and ministers “associated with its distinct denominations and functions”, religious goals “that respect the limits of the exercise of religious freedom”, and the presence of a significant number of believers. While the registration of Wahhabi, Deobandi, and other extremist mosques or prayer spaces may not consistently demonstrate “respect [for] the limits of the exercise of religious freedom”, Seglers did not take up this issue.

Rather, the Catalan author pointed out that the Islamic Community of Ceuta, with a large Berber element, was denied registration because it did not present evidence of its own “body of dogmas and doctrines”. The Islamic Community of Ceuta, perhaps because of its Berber influence, defines itself only by reference to “diffusion of the Islamic faith and the *Sunnah* through the teachings of the holy book of *Qur’an* as a guide and norm for all Muslims”. This markedly open and unrestrictive interpretation of Islam, without sectarian or other additions, was rejected by the Spanish authorities as a vague conception insufficient to define a body of dogma and a “specifically doctrinal” differentiation.

In mid-2008, the vice president of the Zapatero government, María Teresa Fernández de la Vega, announced a legal reform that would, according to the administration, support pluralism and protect freedom of conscience through revision of the state’s Organic Law on Religious Freedom (*Ley Orgánica de Libertad Religiosa* – LOLR).²⁵¹ Tatary and Herrero, acting on behalf of CIE, immediately called on the

Spanish government to establish complete equality of all faiths, specifically putting Islam on the same level with the Catholic church.²⁵² At the time of our survey no action had been fulfilled to implement this demand.

In March 2009, Spanish media²⁵³ reported that Abdellah Boussouf, general secretary of the Council of the Moroccan Community Abroad, an official body maintained by the Moroccan state, called for the election of Muslim leaders in Spain, according to the model adopted in France. Boussouf's comments followed a colloquium in the Moroccan city of Fez, and were presented as an appeal for greater democracy in Spanish Muslim life.

(3) Criminal aspects

With a significant North African and West African immigrant population, including a large underclass, it is unsurprising that Muslims are represented beyond their national demographic ratio, in Spanish correctional institutions. In 2004, the problem of radical Islam among convicts, as a separate topic from the legal offensive against terrorism, was described in a major reportage focusing on the badly-overcrowded prison of Topas, in the autonomous region of Castilla and León.²⁵⁴ There it was reported that a group of Muslims led by an Algerian, Abderrahman Tahiri, alias "Mohamed Achraf", had occupied the former educational facility inside the prison, using it for Quranic study and for religious services. Vocal calls to prayer from the new "mosque" were said to have disturbed other prisoners.

Later in 2004, a followup reportage²⁵⁵ alleged that correctional institutions in Andalusia had become filled with Muslim extremist activity. The prison of Almería, a city on the southeastern coast with close proximity to North Africa, housed 350 Muslims (mainly Moroccans and Algerians) out of 1,100 inmates. The facility is the "most obsolete" in Andalusia and was built to accommodate only 650 prisoners. One wing, constructed for 50, had become a "ghetto" of 130 Muslims.

In 2005, an identified Muslim died while incarcerated in the prison of Zuera, in the autonomous region of Aragón. In 1994, he had been invited to eat at the home of a Moroccan compatriot, whom he doused with gasoline and burned to death.²⁵⁶ The killer had been taught radical ideology at Topas after meeting Achraf.

Spain has also been challenged by the problem of Islamic religious personnel serving prisoners. In 2005, the government stated that it would hire Muslim clerics to serve in the correctional system, to avoid the emergence of radical prayer leaders from the ranks of the incarcerated. The case of "Achraf" in Topas was specifically cited in this context.²⁵⁷

The prison at Topas further provided an example of something relatively rare in other countries: recruitment to and formulation of an elaborate but failed terrorist conspiracy, from behind bars. According to a journalistic account,²⁵⁸ the "Topas Group" led by "Achraf" had joined with members of the Algerian GSPC (see *Case Study: France*) to create a group called Martyrs of Morocco (*Mártires de Marruecos*) which planned a series of attacks on judicial institutions within two months of the 3/11 bombings. The crimes were prevented by a police action titled "Operation Nova", resulting in charges against 20 suspects. "Mohamed Achraf" was sentenced to 14 years in prison as leader of an armed gang. But in 2008 14 of those convicted were exonerated by the Spanish Supreme Court.²⁵⁹ Spanish media reporting on the "Operation Nova" affair²⁶⁰ stated that in addition to those recruited to extremism as convicts in Topas, others had served time in the institutions of A Lama, Teixeiro, and Bonxe, in the autonomous region of Galicia. A Lama has attained notoriety similar to that of Topas as a centre of radical Islamist agitation.

As 2008 ended, Spanish media disclosed that Mercedes Gallizo Llamas, Spanish General Director of Penitentiary Institutions, had distributed an 89-page manual advising prison personnel on how to identify Islamist radicals.²⁶¹ But the manual, which appears to resemble that

produced by the European Union and described in *Case Study: France*, included some markers of radicalism that would be common among spiritual Sufis and ordinary Muslims, as well as extremists, such as the repetition of passages from *Qur'an* while working, and the possession of *tesbih*, the “Islamic rosary” used for recitation of praise to God. The manual discussed the Topas case and summarised the situation of radical Islam in Spanish prisons in an idiom commonly heard in Spain: “The present high concentration of Muslims kept in penitentiaries, especially those originating from the Maghreb, favors activities of proselytism and radicalisation”.

(4) Approach to Women

Although it has been the subject of vivid discussion, the wearing of *hijab* (known as a *pañuelo* or kerchief) by Muslim girls is not banned in Spain. It is doubtful that such a ban could be imposed. It would be opposed by the Socialists as discriminatory, as well as by Catholics and the PP, which would view it as a sign of political weakness, according to a leading non-Muslim, conservative journalist interviewed for this survey.

Abuse inflicted on Muslim women has attracted far less attention in Spain than in the northern countries (the UK, Germany, and the Netherlands), or in France. This could be explained by the continuing general subordination of women in Spain’s masculinist culture, but such an analysis would be faulty in various ways. Spanish women have, since Roman times, been known for fighting alongside or in advance of men in combat, and during the civil war of the 1930s, women troops played a controversial but significant role. The Spanish left of that time had the most developed women’s political organisations in southern Europe; similarly, the Spanish right supported a powerful women’s movement.

Today’s Spain is, in legal terms, one of the most “feminist” countries in the world. Spain mandates parity of men and women in governmental employment, and has adopted

discrimination in favor of women as a constitutional principle. Elite opinion deplors violence against women, and threats by a man against a woman are criminalised, without the reverse being unlawful. In addition, Spain has legalised same-sex weddings and adoptions. The rural populace, however, remains, in many areas, Catholic and conservative on such issues. Conceptions of “honour” and violent, sometimes lethal punishment for violations of them are seen in the Christian cultures of the Mediterranean, particularly in Italy, no less than among Muslims; but in Spain, women may be as prone to settling conflicts by physical means as men. The overall situation is extremely complex. While FGM does not exist among Spanish Christians, other atrocious practices persist from centuries past, e.g., in some isolated locations the so-called “right of the first night”, in which landowners had the privilege of taking the virginity of an employee’s new bride, was known until the close of the 20th century.

In 2000 the issue of domestic violence by Muslim men came before the Spanish public when Mohamed Kamal Mostafá, imam of the Sohail Islamic Cultural Centre (*Centro Cultural Islámico Sohail*) at Fuengirola in the Andalusian district of Málaga, and a leading Spanish Muslim cleric, was denounced by a group of Spanish feminist organisations. The plaintiffs included the Women’s Council of the Region of Madrid (*Consejo de la Mujer de la Comunidad de Madrid*) with 80 constituent groups, the Federation of Divorced and Separated Women (*Federación de Mujeres Divorciadas y Separadas* – 10 affiliated groups), the Association of Maghrebi Women of Catalonia (*Amal*), and the Association for Aid to Sexually-Assaulted Women (*Asociación de Asistencia a Mujeres Agredidas sexualmente*). The cause for criticism was Mostafá’s publication in Barcelona of his book *Woman in Islam (La mujer en el Islam)*. Written in 1997, the book was published by the president of the Islamic Federation of Catalonia (*Federació Islàmica de Catalunya*), Mowafak Kanfach, and the volume was mainly

distributed at the Saudi-financed Islamic Cultural Centre in Madrid, Mostafá's own mosque in Fuengirola, and the Casa del Libro Árabe, a bookshop in Barcelona.

Therein, Mostafá commented, "[Wife] beating must never be done in a state of exacerbated, blind rage" and that "she should not be beaten on the sensitive parts of her body, such as the face, breast, abdomen, and head. Instead, she should be beaten on the feet and hands", with a "rod that must not be stiff, but slim and lightweight to avoid serious injury [to the woman] and so that no scars, or bruises are caused". Similarly, "[the blows] must not be strong or hard since the aim is to inflict psychological suffering rather than humiliation or physical ill-treatment". After some confusion over jurisdiction, the imam of Fuengirola was brought before a court in Barcelona and charged with sexual discrimination in 2003. Mostafá was sentenced to fifteen months in jail (with prison time suspended) and a fine of €2,160, and his book was condemned as an incitement to domestic violence.²⁶² Spanish Muslim opinion on the case was split, with many expressing satisfaction with the verdict, and accusing Mostafá of a deviant interpretation of Islam. Some, however, argued that Mostafá had been the object of persecution because of an attempt by him to gain the presidency of FEERI, from which he had been expelled in 1992.²⁶³

Barcelona is one of Western Europe's tourism capitals, but differs from Amsterdam, London, or Paris, in that it has little or no sense of social segregation among those who come to visit it. Native Catalans and immigrant workers, whether from elsewhere in Spain or other parts of the world, may observe a certain alienation between their communities; Catalans refer to Spanish immigrants to the principality as *xarnegos*, a racist insult. (Similarly, Basques refer to non-Basques as *maketo*.) But Barcelona is a city of Mediterranean passion, notable for its sexual exhilaration and a constant, year-around stream of youthful visitors, including many foreigners, aside from Muslims, who choose to

settle there. In this respect it somewhat resembles Amsterdam, except that in Amsterdam foreign visitors tend to liaise with one another, while in Barcelona visitors develop relationships with local residents. In addition, it is difficult to imagine foreign tourists in Amsterdam, London, or Paris making social contacts with Muslim women that might lead to deeper relations.

A case publicised in Barcelona in 2002 demonstrated the difference between the Catalan capital and other European tourist centres, in terms of its openness, but also underscored the problems of Muslim women throughout Western Europe.²⁶⁴ The incident was described by a woman reporter, Yazmin Alami, for a major daily. A Pakistani immigrant woman in her late teens, known as Roxana, worked as cashier in a food store owned by her family in El Raval, the geographically lower and poorer district of the old city of Barcelona, located to the west of the Rambles, or main street in the historic section. El Raval was formerly known as the *Barri Xinès* or "Chinatown", although Barcelona has never had a large Chinese community. The association of the neighbourhood with Chinese has been explained by Barcelona historians as a corrupted reference to the Carthaginians, who founded Barcelona as the victory city of the Barcas, the family of Hannibal, in the third century B.C.E. In Roman times, an aristocratic "upper town" was built on the eastern, other side of the Rambles, and is now known as the *Barri Gòtic* or Gothic Quarter. The *Barri Gòtic* remains the central location of Barcelona's municipal and Catalonia's autonomous regional governments.

El Raval was always a sub-proletarian area, known as a focus of anarchist politics as well as such vices as the consumption of *absemta*, a powerful alcoholic drink that causes dementia after long use. Until the Barcelona Summer Olympics of 1992, El Raval was also shabby, if not decrepit, and, late at night, afflicted with petty crime. Although in its old incarnation El Raval was beloved by Barcelonese and many discerning visitors for its picturesque and historic quality, the district was rehabilitated for the

Olympics and now appears gentrified. El Raval has become a centre for artists and other young visitors, as well as Muslim immigrants, especially *Maghrebis* and Pakistanis. El Raval has at least 12 mosques, which are seldom easy to locate; none have minarets, few have nameplaques, or are open outside prayer times. To find a mosque in El Raval one must inquire in Muslim shops. In this regard the situation in Barcelona resembles that in Marseille.

As described by the 2002 reportage, the problem of Roxana began when she developed a romantic attachment to a blond and blue-eyed German tourist named Hans, who had come to Catalonia to learn Spanish. But Roxana's family disapproved of the frequent visits of the young Nordic to their store, and sent their daughter back to Pakistan for an arranged marriage with a cousin, to whom she had been betrothed as a child.

The reporter, Ms. Alami, stated that Roxana had been beaten with a belt by her male relatives before being left alone to recuperate and then sent to her native country. Ms. Alami wrote, "The case of Roxana is not something rare in Spain. But society and the police are unaware that honour codes do not recognise borders. The immigrant woman must travel with a family watching her closely. And, as happened to Roxana, adultery is a motive for family extradition and a later and brutal traditional punishment in the country of origin of the women found to have committed an offence".

This reportage seems unique in recent Spanish journalism, but also combines the issues of so-called "honour" crime, violence against Muslim women, and forced marriages.

The problem of FGM also has a low profile in Spain, where it is known as "*circuncisión femenina*" or "*ablación genital femenina*". In 2006, the Spanish public was informed that Egypt had classified "female genital surgery" as a legitimate medical specialisation,²⁶⁵ although some Islamic countries, such as Indonesia, had already banned the procedure, a prohibition in which Egypt itself

followed suit. Notwithstanding its practise in Saudi Arabia, Sudan, and Sénégal, Egypt is the only major Muslim country with a high rate of FGM, as "justified" by previously cited Shafi'i *Shariah* norms and a *fatwa* by Al-Qaradawi.

A 2008 Spanish media report²⁶⁶ described FGM as "a custom still deeply rooted in the Sub-Saharan countries [from which many current immigrants to Spain have come], with numbers that currently oscillate in the vicinity of two million operations per year". The text continued, "Our society, unfamiliar with these rituals, as well as women who have been the object of them throughout their lives, detest this form of mutilation... But it is no less certain that in our society, for diverse reasons (religious, traditional, lack of knowledge, or incorrect stereotypes), circumcisions are practiced as a matter of routine". The main point of the reportage was, however, to note that a Catalan physician, Dr. Pere Barri Soldevila, from the Department of Gynecology, Obstetrics, and Reproduction of the USP Institut Universitari Dexeus, the main private hospital in Barcelona, and the sole medical expert qualified to do so in Spain, had succeeded in performing the first successful operations to reverse the effects of FGM. The therapy was provided to two women of Black African origin, without charge.

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9. ECFR and Other Transnational Islamic Organisations in Europe (FIOE, EMN, EMU)



The present survey includes frequent mention of the activities of the European Council for Fatawa and Research (ECFR) in formulating *Shariah* for Muslims in Europe. In an examination of two volumes of *fatwas* published by the group, it is noticeable that few of them, except that reflecting whether house mortgages involving interest income are permitted for Muslims, would reflect on Muslim relations with non-Muslims.

ECFR's First *Fatwa* Collection

The 43 *fatwas* in the first collection published by ECFR²⁶⁷ are composed in a language that often appears moderate. The accompanying ECFR recommendations reaffirm the traditional Islamic injunction to obey the laws of the countries that

have admitted them and, specifically, to avoid applying for public assistance or welfare payments if they have jobs or operate businesses. At the same time, *fatwa No. 1* states that Muslims are obligated to leave non-Muslim lands, if, in the language of the text, the Muslim lives “without a Muslim identity”. unless the Muslim can find no other solution for pursuit of a life. This argument is based on the presumption that a Muslim may find himself in “an environment where he fears for his religion, for himself and for his family”. The same text permits emigration to non-Muslim societies as “hoped for and desired” if to “an environment that offers a greater possibility of respecting the prescriptions of religion”.

The rest of the *fatwas* in the first collection deal with various topics, in a fundamentalist vein. These include definition of the “saved” sect among Muslims – a common issue in Islamic fundamentalism; repentance of sin; and the question of death sentences against apostates from Islam. The latter problem is treated ambiguously by ECFR, which says that application of death sentences for apostates can only be decided by an Islamic state, and that local groups and mosques should avoid concerning themselves with it. In the same *fatwa* (No. 4) ECFR points out that early Islamic scholars denied that an apostate should be subjected to a death sentence unless the individual preached apostasy, sought to divide the Muslims, and insulted the Creator, the Prophet Muhammad, and the believers. Finally, however, ECFR states that “apostasy” should be considered a crime similar to “high treason”, with the implication that since some Western countries impose capital punishment for the latter crime, it is justifiable in cases of leaving Islam. The spirit of this *fatwa*

conflicts directly with European and international conventions on freedom of religion.

Another *fatwa* in the first series (*No. 5*) deals with the traditional requirement for a new Sunni Muslim (“convert”) to choose an affiliation with one of the four traditional Sunni schools of Islamic law. ECFR denies that this is necessary, reflecting the fundamentalist and reformist habits of the Wahhabi movement, which attempts to wipe out the precedents established by the four schools. *Fatwa No. 6* in the first series calls on Muslim women to maintain *hijab* so as to set themselves apart from non-Muslims and Muslims who do not practice their religion. This represents a dangerously separatist attitude toward non-Muslim societies.

The remaining *fatwas* in the first series appear innocuous, pronouncing on:

- whether dogs are unclean (they are not, according to the Maliki and Hanafi schools of Islamic law);
- qualification for leading Muslim prayer;
- prayers for the dead;
- administration of charity payments;
- disposition of minor interest paid on bank accounts in non-Islamic institutions;
- endowment of mosques;
- use of non-interest-charging credit cards issued by charitable organisations (some of them backed by banks in Kuwait, Qatar, and Saudi Arabia);
- employment in restaurants serving alcohol or pork;
- payment of profits on investment;
- marriages of convenience;
- the definition of “religious” marriage;
- the presence of husbands at the bedside during childbirth;
- abortion;
- the post-partum right of mothers to rest from their ordinary activities;
- whether men can forbid their wives to attend courses in the faith of Islam;
- whether a Muslim wife should serve as

- the sole financial support of a husband;
- the right of women to open bank accounts;
- whether wives must entertain visitors when their husbands are sick;
- differences in interpretations of Islamic tradition between husband and wife;
- whether fathers are required to oversee disciplining of children;
- the right of non-Muslim women married to Muslim men to maintain close relations with their non-Muslim families;
- pork byproducts in food;
- whether it is required for a person who becomes Muslim to adopt a Muslim name;
- whether married women can speak to men to whom they are not married;
- whether riding a bicycle endangers a girl’s virginity;
- permission for small children to participate in simple dances at school;
- purchase and use of fireworks;
- masturbation;
- participation of Muslims in elections held by Western governments;
- employment of Muslim medical personnel in disposal of bodies by cremation.

None of these evince a rigid or repressive spirit.

But the first collection’s *fatwas* deal with a number of issues in gender relations. These include:

No. 19: Whether husband alone can determine if a woman falsely declared her virginity before marriage. Unsupported claims on this matter are discouraged by ECFR.

No. 21: The right of women to cut their hair without permission from their husbands. A new hair style is discouraged by ECFR if the change is too surprising to the husband.

No. 29: Recourse of the Muslim wife living in the West in case of irresolvable

family disputes. ECFR calls for such problems to be turned over to “family tribunals”, which are described in this study, and present a serious conflict with Western services to women by public agencies dedicated to family problems.

No. 32: The right of a husband to forbid his wife from visiting a female friend. ECFR holds that husbands may prohibit wives from visiting certain women friends if the husband fears harm to the family or a risk to conjugal relations. As we have stated in discussing so-called “honour” murders, this religious opinion may be utilised to justify violent actions against such allegedly illicit friendships.

Some of the first ECFR collection’s *fatwas* reflect a fundamentalist intolerance but cannot be said to interfere with Western social or legal canons. *No. 33* declares that members of the Druze sect are apostates and that religious Muslims should not eat with them. *No. 36* discourages mixed gender activities at weddings.

ECFR’s Second *Fatwa* Collection

The second ECFR collection²⁶⁸ comprises 37 *fatwas*.

As with the first collection, many of these are written in a moderate style, and few have to do with Muslim relations with non-Muslim legal authorities, although they embody fundamentalist attitudes that are problematic in the Western context. Some of them repeat or reinforce the content of *fatwas* in the first collection.

Fatwa No. 1 of the second collection, on “interfaith dialogue”, is benign in appearance but includes some fundamentalist assumptions. It legitimises relations between Muslims and adherents of “divine faiths [that] acknowledge the concept of deity, prophethood and the hereafter” – implying discussion only with Jews and Christians, the surviving communities of the original People of the Book (*Ahl ul-Kitab*) described in *Qur’an*. When King Abdullah of Saudi Arabia held interreligious talks in Madrid in July 2008, however, the Saudi monarch

secured the participation of figures representing faiths never previously considered worthy of respect by Muslim fundamentalists such as the majority of ECFR members, including Buddhists, Confucians, and Taoists. Notwithstanding serious problems at the conference itself, and doubt as to its real utility, the July 2008 Madrid interreligious meeting represented a historic, public change in the attitudes of a major Muslim authority toward non-monotheistic believers.

The rest of the second collection comprises *fatwas* on:

- affirmation of the right of women to work in public functions, including mosque and charity administration, other Islamic organisational activities, and holding of public office;
- determination of the direction of prayer (*qibla*) in a building where there is no indication of the geographical relationship to Mecca;
- combination of the two midday (*zuhr* and *asr*) and two evening prayers (*maghrib* and *isha*), of the required daily observance, for Muslims living in Europe, with each pair merged into a single prayer. In the first instance the practise is justified because winter shortens the hours of the day, and in the second when summer makes the astronomical indicators of prayer times difficult to observe – the ECFR warns, however, against making the practise habitual;
- the payment of *zakat* (obligatory charity);
- permission for acceptance of charitable donations from non-Muslims as long as the source of funds does not originate in the production of pork or alcohol;
- permission for transfer of interest earned from Western bank accounts to Islamic charities;
- method of fixing the time at which the Ramadan fast begins and ends;
- observance of the age of a sacrificed

animal;

- assignment of a deceased woman's wealth to her heirs, on the basis that the assets are hers;
- permission to destroy embryos collected for *in vitro* fertilisation if they become unnecessary because of a natural pregnancy;
- permission for a man and women who have both committed adultery to become married and be considered free of sin after their wedding;
- formal affirmation of the equality of husbands and wives;
- legitimacy of divorces ordered by non-Muslim judges in the West;
- support for the right of a woman to divorce her irreligious husband;
- permission for inheritances to Muslims from their non-Muslim relatives;
- permission for Muslims to attend the funerals of non-Muslim relatives;
- permission for Muslims to be buried in non-Muslim cemeteries if no Muslim cemetery is available;
- prohibition on breaking a contract after it has been undertaken;
- encouragement to participate in sports;
- prohibition on employees diverting the facilities of their employers for their own use;
- permission to purchase insurance on mosques, schools, and other Islamic facilities, as well as personal homes, vehicles and businesses, and health insurance. The question of life insurance was deferred, and Muslims were encouraged to establish "Islamic cooperative insurance" programs;
- permission to consume soft drinks that allegedly contain small amounts of alcohol so long as they do not cause intoxication when consumed in large quantities;
- prohibition on consumption of meat that is not slaughtered according to

Islamic law;

- definition of vinegar derived from alcohol as a non-intoxicant and therefore permissible for use in food;
- exclusion of feelings of love by a woman for a man from consideration as sinful, unless consummated in an illegitimate manner;
- encouragement for Muslims to deliver good wishes to non-Muslims on the holidays observed by the latter, while prohibiting participation in non-Muslim religious festivities, following the opinions of the notorious fundamentalists Ibn Taymiyya and Ibn Qayyim, who were born in the 13th century C.E. At the same time, the *fatwa* places no limit on participation in patriotic or other non-religious holidays honoured by non-Muslims;
- permission for human organ donation.

Fatwas from the second collection that conflict with Western legal standards include:

No. 12, Requirement for women to obtain permission from a male legal guardian for marriage. ECFR acknowledged that traditional *Shariah* scholars considered this requirement arguable, except when girls were under the age of puberty. But ECFR blandly states that women's guardians "wish only for their best interest and that they marry good men rather than deceitful and ill-heart (sic) suitors", which can hardly be assumed in every case, especially given the widespread abuse of women as described in this survey. ECFR further recommends that in the absence of such guardians the mosque should assume guardianship, but that mature women need not submit their marriage decisions to a guardian. Nevertheless, the question in itself reveals the gap between the mentality of ECFR and Western legal and social norms.

No. 13, Affirmation of the right of Muslim

men to four wives. ECFR produced a classic fundamentalist defence of polygamy, although it is disappearing in most of the Muslim world and is illegal, at least *de jure*, in the West.

No. 16, Ruling on women initiating divorces. ECFR states that a woman may initiate a divorce if a provision for such an action was written into her marriage contract. Otherwise, it reinforces the exclusive right of men to initiate divorce, and makes the initiation of divorce by women dependent on judicial authorities.

No. 24, Prohibition of boxing between human beings (as opposed to practicing with a dummy). ECFR asserts that *Shariah* bans boxing for Muslims, and also for non-Muslims, the latter claim being one that cannot be considered legitimately enforceable in a non-Muslim country.

No. 26, Permission for mortgages in house purchase. This is the *fatwa* on house purchase produced by the debate described *ad extenso* in chapter 3 of this study, and is exceptionally long and detailed. The *fatwa* specifically bans contracting a mortgage to buy a house that the owner will not use, a second home, or if the purchaser has assets that make the mortgage contract unnecessary.

No. 32, Exposure of women's bodies during swimming. This *fatwa* grants permission for Muslim women to expose the area from the navel to the knee to non-Muslim women while engaged in swimming, but with the stricture that men must not be present. It further states that non-Muslim women who do not swim in the presence of men should be considered virtuous, and should be called to Islam by Muslim women. The latter represents, in our view, an excessive religious intrusion into ordinary social relations.

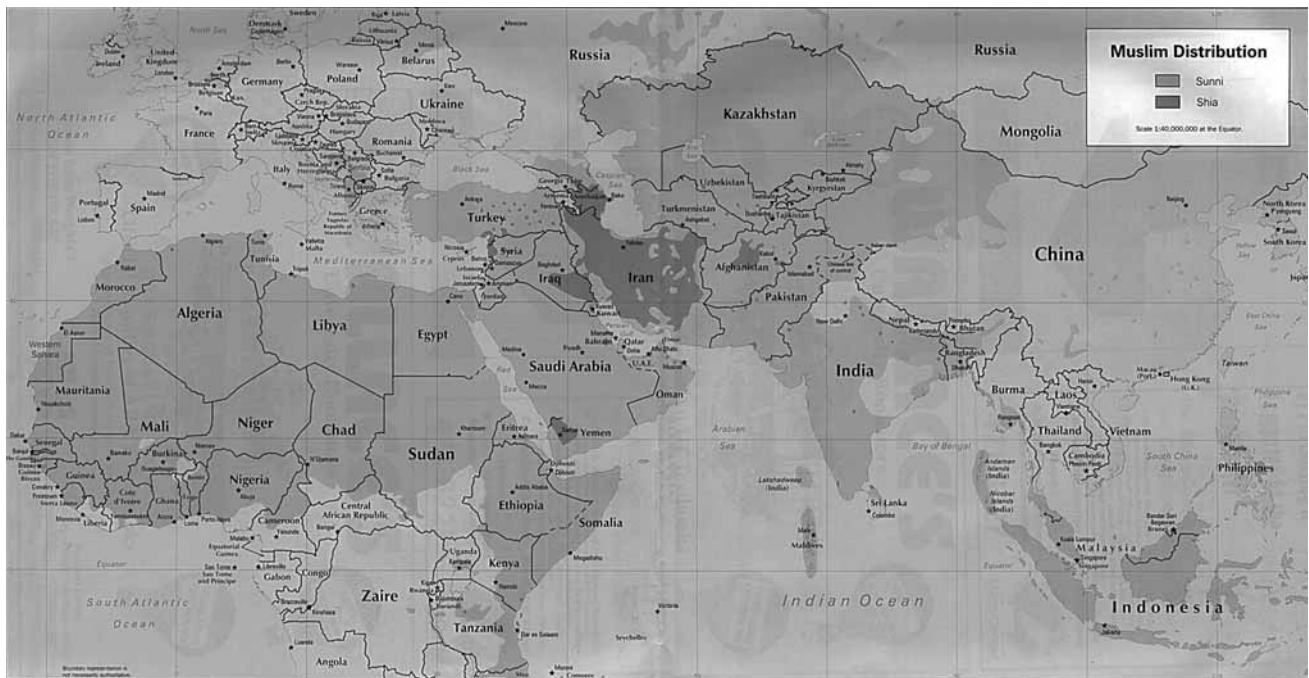
No. 34, Prohibition of gender mixing.

The *fatwa* bans unmarried men and women from meeting alone, as well as physical contact between them, and demands that women meeting men to whom they are not married cover their entire bodies except for their faces and hands. The *fatwa* also calls for gender segregation in public meetings. Such practices are not banned in the West, but obviously conflict with Western customs. *No. 35, Requiring women to inform their husbands if they leave the house, and to travel in the company of a chaperone (mehram).* Like the preceding *fatwa*, this opinion represents a stark difference from canons for women's rights in the West.

The second collection also includes a *fatwa* (*No. 36*) against the surrender of any part of Jerusalem or sale of Palestinian land to non-Arabs. The *fatwa* is interesting in that it declares Jerusalem to be the property of all Muslims, whether Arab or not, and all Arabs, whether Muslims or Christians. (It ignores the cultural fact that some Jews who speak Arabic and lived in Arab countries define themselves as "Arab Jews".) While this *fatwa* does not impend on the relations of Muslims with Western legal systems it most certainly reveals the orientation of ECFR toward a radical position on Palestinian issues and reinforces the observation that ECFR is Arab-dominated.

ECFR was created with the support of the Federation of Islamic Organisations in Europe (FIOE). FIOE, which was founded in 1989, comprises small entities in most European countries, but claims to be "the largest Islamic organisation on the European level", an assertion that does not, in our judgement, mean much. FIOE maintains a website with minimal content in English and French.²⁶⁹ The real extent of its influence in European Muslim life is doubtful, especially when compared with the various national organisations described in the *Case Studies*.

A similarly skeletal organisation, the



Muslim concentration Europe, Africa and Asia

European Muslim Network (EMN),²⁷⁰ describes itself as a “think-tank” headquartered in Brussels and is associated with the controversial intellectual Tariq Ramadan. EMN calls for a campaign against forced marriages and claims to support “nonviolent resistance” by Palestinians but draws support from the fundamentalist Islamic milieu.

The European Muslim Union (EMU)²⁷¹ is another and quite different organisation, with headquarters in Köln, and branches in Granada, Berlin, Sarajevo, and Istanbul. We have observed EMU at some length and judge it to be an

authentically moderate Muslim body. EMU’s objectives rest clearly on non-interference with Western social and legal norms. It has no pretensions to the introduction of *Shariah*-based or other separate law in Europe.

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267 Conseil européen des fatwas et de la recherche, *Recueil de fatwas*, Série no. 1, op. cit.

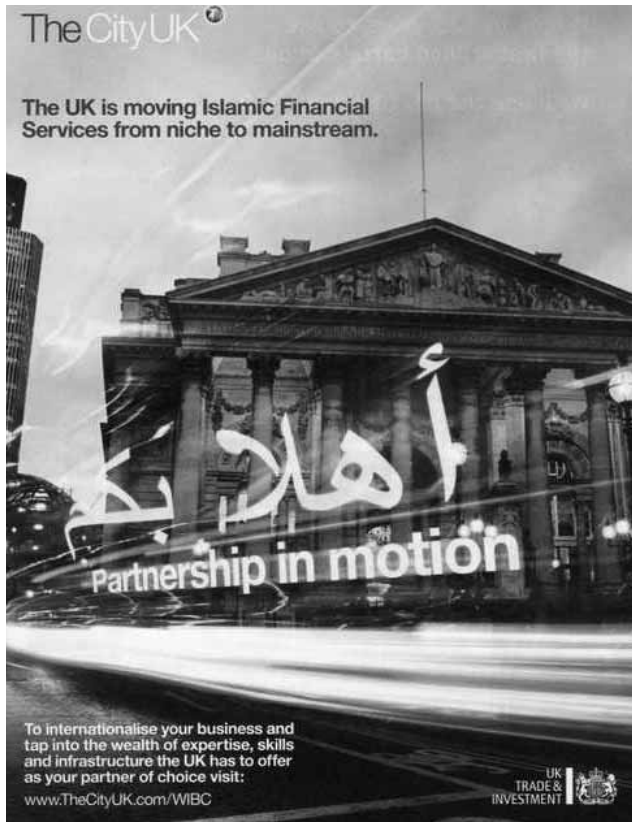
268 Published in English at www.e-cfr.org/.

269 www.euro-muslim.net.

270 www.euro-muslims.eu.

271 www.emunion.org.

10. The Question of ‘Islamic Banking’



The intersection of Islam, investment for earning of interest, and other financial issues is also a repeated topic in this survey. While income based on the loan of money or commodities with repayment accompanied by an increase in value after a delay in time is specifically banned in Islam, interpretation and debate over this prohibition is convoluted and confusing. Whether payment of mortgage interest should be acceptable for Muslims to gain better housing and more secure residence was a key component in the debate in the ECFR beginning in 1997. In the *Case Study: Britain*, we noted the development of so-called “*Shariah*-compliant financial products”, as offered by British banks and investment firms. In addition, the option of

submitting financial disagreements to “parallel *Shariah*” tribunals has been a significant theme in the British discussion over introduction of such a system of mediation.

While “Islamic banking” has recently produced a vivid controversy in the West, over whether it could harm non-Muslim society, it is a subject requiring specialised knowledge of financial practices, and we have exempted it from detailed examination here. We should note, however, that with the coming of the economic crisis of 2008 in the West, arguments in favor of Islamic banking have been aired before the non-Muslim public. For example, a Reuters journalist²⁷² reported, “The global credit crisis presents the \$1 trillion Islamic finance industry with an opportunity to expand its appeal beyond Muslim investors, as a haven from speculative excess. The message may have particular resonance in the West after the crumbling of the U.S. mortgage market left banks holding hundreds of billions of dollars of nearly worthless credit instruments tied to home loans by a web of complex structures. While conventional banks worldwide are nursing losses of more than \$400 billion from the credit crisis, Islamic banks are virtually unscathed. And they are playing up the contrast to scalded shareholders, bondholders and borrowers and fearful depositors. ‘It’s very much a return to old-fashioned conservative lending,’ said David Testa, chief executive of Gatehouse Bank, which began operations in April [2008] as the fifth Islamic bank in Britain. ‘The current global market condition has given Islamic finance a great opportunity to show what it can do - help to fill the liquidity gap,’ he said”.

The authors of this study are concerned



that submission of “Islamic finance” disputes to “parallel *Shariah*” tribunals could increase the influence of radical clerics, similar to that observed in Britain in the area of divorce. Worse, it would support a greater sense of segregation between the broader, non-Muslim UK and European population and the Muslim minority. At the same time, we observe that while some Western financial institutions have offered “*Shariah*-compliant” banking and investment products for almost three decades, there is so far no evidence that such practices have had any negative effect on Western society. We also recognise that for most Westerners, decisions on how, where, or under what conditions individuals deposit or invest their money is a matter of free personal choice, providing that no laws are broken and the source and use of funds is not itself illegal – e.g. derived from criminal activity or directed to support of terrorism.

Muslims who wish to invest money in enterprises that are not involved with forbidden products such as pork or alcohol may ascertain for themselves the activities of businesses, without recourse to “Islamic banking”. In addition, Muslims who deposit funds with banks that pay interest on accounts may also choose to donate the money so earned to educational and other institutions. Traditional Islam does not clearly ban all interest income, but rather, investment for the sole purpose of earning interest, which is considered usury.

Is abolition of the traditional Islamic ban on investment for earning of interest necessary for the progress of the global Islamic

community? In a distorted manner, the increasingly-unavoidable nature of this question was addressed by the ECFR consultations on mortgage purchase described in this survey. But the matter had previously been widely argued by Muslim and non-Muslim commentators.

Timur Kuran, professor of economics and law and King Faisal professor of Islamic thought and culture at the University of Southern California, has written an authoritative study of financial issues in Islam, titled *Islam and Mammon*.²⁷³ Prof. Kuran has outlined the various issues involved in the Muslim discussion of interest, financial practices, and so-called “Islamic banking”. He argues that Islamist ideology “like other fundamentalisms... carries the potential of harming the global economy”. He points out that “the promotion of Islamic banking is a standard element of every Islamist economic agenda”. While he observes that “Islamists, including Islamic economists, have always been divided on the merits of the market”, he warns that “Islamist leaders who... desire to restrict international trade or regulate the composition of private investment will have little difficulty justifying their actions in religious terms”.

“Islamic banking” has been noticeably accepted in Britain more than elsewhere in the countries we examined. This is only partially explained by the role of London as a global financial centre. Prof. Kuran has traced the origin of the present-day doctrine of “Islamic banking” to the extremist interpretation of Islam promoted in India and Pakistan by the jihadist movement

founded by Mawdudi and then imported into the UK. He describes this ideology as separatist and purificationist: according to Mawdudi, as paraphrased by Prof. Kuran, “A minority of Muslims were ‘true Muslims,’ as they were ‘completely immersed in Islam.’ Religion fully controlled ‘their heads and hearts, their bellies and private parts.’ But the majority barely practiced Islam... The latter group of ‘partial Muslims’ had never accomplished anything of value, according to Mawdudi”.

This is the context from which the ideology of “Islamic banking”, which we do not consider to be essentially Islamic or appropriate for Muslims, emerged.

Prof. Kuran’s book also embodies an important lesson for Westerners in their examination of radical Islam, and that we believe provides a much sounder basis for economic justice and efficient development among Muslims: “The history of various Muslim peoples feature extended periods of steady

economic growth, scientific creativity, and artistic [efflorescence]. One need only think about the high periods of the Abbasid Caliphate, Muslim Spain, Safavid Iran, the Ottoman Empire, and Mughal India... To invoke the glories of these cosmopolitan states would have undermined the argument that Muslims do best when they withdraw into their own communal shells”.

We judge that radical *Shariah* in both Muslim and non-Muslim societies represents the creation of just such “communal shells” and erects a system of barriers to the progress and prosperity of Muslims. Further, in the non-Muslim West such obstacles between communities represent a threat of increased social discord and radical influence.

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272 Desai, Umesh, “Credit crisis gives Islamic finance a chance to shine”, *International Herald Tribune*, August 19, 2008.

273 Kuran, Timur, *Islam and Mammon: The Economic Predicaments of Islamism*, Princeton U.P., 2004.

11. Conclusion and Recommendations

The CIP survey of *Shariah* in Western Europe has produced a number of conclusions by the investigators that, in turn, generated recommendations for the use of governmental authorities, academics, and media.

The first conclusion we derive from our study is that notwithstanding the widespread image among non-Muslims of Europe as a continent under an irresistible Islamic siege, there is considerable European Muslim opposition to radicalism, including to the introduction of some form of *Shariah* as a special, separate legal standard. Western governments should support the anti-radical tendencies among Muslims. As we have observed, however, Western European governments have taken measures leading in exactly the opposite direction, legitimising radicals as partners in public affairs and excluding anti-radical tendencies.

We therefore offer the following responses to the questions posed at the beginning of this document, with seven recommendations.

How do *Shariah* proponents advance radical ideology and/or serve as cover for terrorist conspiracies?

- Radical *Shariah* ideology is an essential element in the recruitment and incitement of terrorists in Western Islamic milieux, since such beliefs call for separation of Muslims from their non-Muslim neighbours and rejection of Western institutions. Groups that agitate for radical *Shariah* or “parallel *Shariah*” inevitably serve as friendly environments in enlistment for, and organisation, preparation, and completion of terrorist operations.
- Radical Islamic agitation in the West,

both as it deals with *Shariah* and in support of terrorism, is not, in our view, a product of social or political grievances, but of specific ideologies – mainly Wahhabism, Deobandism, “soft” fundamentalism in Turkey, and the doctrines of the Muslim Brotherhood – that have enjoyed funding support from established or failing states. Severing financial links, and defeating these ideologies within the Muslim communities, are necessary to abate radicalisation and prevent terrorism; dialogue about alleged grievances is useful regarding local complaints of discrimination, which may or may not be legitimate, but is of secondary utility.

How do proponents of radical or “parallel *Shariah*” contend with objections to their activities by women, secular Muslims, moderates, and traditionalists, and vice versa?

- While groups such as the ECFR and EMN adopt an ameliorative idiom and apparently moderate arguments in addressing issues involving women, they tend to exclude women, and definitely ignore secular Muslims, moderates, and traditionalists in their discourse. Aside from women, the non-radical elements in European Islam are treated by *Shariah* agitators as presumptive apostates from Islam.
- In response, Muslim women in all five of the named Western European countries, and moderates in Germany, the Netherlands, France, and Spain, have organised opposition against the radicals. Moderates in Germany and the

Netherlands enjoy more advantageous positions because of Turkish state secularism and Alevi community advocacy among Muslim immigrants and their descendants. In the mainly-Berber Muslim communities in the Netherlands, France and Spain, moderates are unorganised or minimally organised but represent an articulate alternative in France, because of their support to French state secularism. Traditionalists, who could serve as the basis of moderate opposition to the radicals in Britain, are disorganised or fractured in that country.

Do families more frequently consult religious leaders or submit queries to *Shariah* websites before making decisions?

- While *Shariah* queries to religious leaders and websites appear a popular method of improvised religious self-education among younger European Muslims, we found little evidence that ordinary Muslim parents tend to resort to them for assistance in making decisions. The majority of non-radical Muslims seem to make family and related decisions based on religious habits they imported from their countries of origin or inherited from their immigrant parents, without consulting religious authorities.

Is voluntary community mediation based on Islamic law a workable concept, in which guarantees of fair treatment can be assured?

- As demonstrated by the Albanian Catholic example of mediation to end honour conflicts and the Alevi practice of settlement of disagreements by “popular tribunals”, both described above in *Case Study: Germany*, religious functionaries can play a positive role in community mediation. Community mediation, if it is truly voluntary and monitored by established, non-Muslim family law or social welfare agencies, could be an acceptable institution for Western European Muslims. Such mediation

among the majority of Muslims living in the West nevertheless embodies certain risks. One such involves the failure of non-Muslim state authorities to adequately enforce established standards, under the pretext of minority accommodation. Another and greater danger is that of the control of such processes by extremists, as we see in *Shariah* divorce tribunals in the UK, which are dominated by Deobandi radicals.

- Moderate resources for community mediation exist in the Alevi communities among Turkish and Kurdish Muslims in the West, and the potential for such practices appears realistic among Berbers in the Netherlands, France, and Spain. But we note with concern the absence of knowledge among non-Muslim authorities regarding Berber community alternatives to *Shariah*.

- In the British case, we are dismayed by official ignorance of the capacity of Barelvi mosques and communities, which comprise the majority of British Muslims, to provide moderate choices for religious-based mediation.

- Alevis and Berbers suffer in Western Europe from the syndrome of neglect as “minorities within minorities”, representing heterodox Muslim identities submerged in the general atmosphere of “established” Islamic culture and vulnerable to discrimination by “official” as well as radical Muslim leaders.

How can Western-trained and resident Muslim (non-*Shariah*) legal professionals be assisted to form a professional lobby?

- As we saw most clearly in Britain, Muslim lawyers working in the established, non-Muslim legal system represent an important resource for opposition to “parallel *Shariah*” schemes and radical Islam in general. These professionals have received little or no

support from official Western institutions. We therefore formulated Recommendation 2, below.

Can *Shariah* be modernised to function in better harmony with Western law? Does *Shariah* in any form, aside from that governing strictly personal religious matters, have a place in Western Muslim life?

- The concept of “moderate *Shariah*”, as a combination of traditional *Shariah* and contemporary Western law, has been advanced by some “soft fundamentalists”, as in Turkey, as well as certain ideological figures in Iran. Whether *Shariah* may be modernised in this manner in Islamic countries is a worthwhile topic for discussion among Muslim and non-Muslim experts. This conception, nevertheless, need not occupy the attention of Western European authorities, as in our view, such experiments with *Shariah* should not be applied in the West. The question of “Islamic finance” as a form of “parallel *Shariah*” remains to be more fully debated.

How have government or other official responses succeeded or failed, and why?

- Western European governments have generally failed in their response to radical Islam and particularly to *Shariah* agitation. The primary factor in this policy stalemate, to describe it diplomatically, has been the mistaken acceptance of the dominant Sunni community leaders as sole legitimate representatives of Islam in Western Europe, accompanied by exclusion of the above-mentioned advocates for “minorities within minorities”.
- The Western European authorities have effectively enabled the establishment of a “state” or “official” Islam in each of their countries. Such a policy, which ignores the pluralism and diversity of Islam, has never been and would never be applied in

official relations with Christianity or Judaism. Western European governments should abandon the inappropriate quest for a Kissingeresque “single telephone number” for Islam in any European state. Assimilation and integration of Muslims in Western Europe will be accomplished by maintaining multiple lines of communication.

From the global unification facilitating Islamisation as conceived by Taha Jaber Al-Alwani²⁷⁴ and described in chapter 3 of this survey to “official Islam” in each Western European country is a small leap. A unitary “official Islam” in Western Europe will necessarily be dominated by Saudi-financed and other radicals, given the superior economic resources of the latter. While an end of the Wahhabi religious monopoly in Saudi Arabia may be near and could contribute to the diminution of radical influence in Western Europe, there cannot be a policy of waiting for such a change to occur in the Muslim lands.

Some non-Muslims respond to the emergence of radical Islam in Western Europe by insisting that Muslims adopt established local identities as uniform British, Dutch, German, French, and Spanish citizens. We believe this approach is bound to fail, as it involves the same imposition of a false homogeneity that would create “official Islam” under radical domination. Western European Muslims today appear to be faced with two false, and equally rigid alternatives: monolithic assimilation, or monolithic multiculturalism in the form of European “state Islam”.

Monolithic assimilation could superficially succeed in France, Germany, and the Netherlands, but cannot even be adequately defined in England and Spain. British and Spanish cultures are not themselves monolithic – are Muslims asked to become Scots if they live in Glasgow and Welsh if they immigrate to Cardiff? A most important example is that of the Spanish autonomous region of Catalonia, which calls on Muslim immigrants to become Catalans, not

Castilians or “Spaniards”.

Critics of Muslim isolation often focus attention on the negative effects caused by the persistence of Muslim enclaves in Western Europe. But not all immigrant enclaves are equally problematical and the equation of all immigrant enclaves in Western Europe as bad is absurd. In the aftermath of the Mumbai terrorist assault late in 2008, condemnation was expressed in British media of both “Little Pakistans” and “Little Polands” (the latter inhabited, obviously, by Christian immigrants from Eastern Europe), as isolated communities resisting immediate assimilation. But this equation ignores that radicals do not agitate or support terrorist ideologies in Polish immigrant communities. Western Europeans often appear as disturbed by Christian immigration from Poland, by Catholics who may attend mass regularly, as by Muslim immigration. This indicates that problems of cultural assimilation and social rivalry may prove more enduring than those of religious conflict, especially in a situation of economic distress such as emerged in 2007-08.

Discussion of Western European Islam is also negatively affected by what may be called the “noise syndrome”. That is, just as radicals, because of their financial and other assets, have tended to occupy the space for official consultation with Muslims in Western Europe, in

reporting on intra-Muslim debate only “loud” Muslims from the anti-radical side are heard.

For example, the British analyst²⁷⁵ Denis MacEoin argues that among Muslims in the UK, “four groups are important: violent extremists; religious fundamentalists who are Koranic literalists but not violent; liberal Muslims who want to reform Islam to make it compatible with liberal-democracy; and secular Muslims”. In our observations, “Quranic literalism” is mainly a Western myth based on misapprehensions about the nature of fundamentalist and traditional thought in Islam; even the most extreme radicals do not argue from literalism, but from specific interpretations of *Qur’an*. But more important, what about the majority of moderate, traditional, conservative Muslims, loyal to Western law, who may be mobilised to defeat the fundamentalists and other radicals in Western Europe, yet who are not “liberals”, “reformers” – a term often used by the radicals to describe themselves – or secularists? Barelvis, Alevis and Berbers do not easily fit into the liberal or secularist categories even though they may share some attitudes with them.

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274 Al-Alwani, Taha Jaber, *Towards a Fiqh for Minorities*, op. cit.

275 MacEoin, Denis, with the assistance of Whiteman, op. cit.

Recommendations

RECOMMENDATION 1: Alevi community mediation should be provided with official support from the German and Dutch governments. Thorough examination and analysis of options for Berber/Amazigh mediation processes remain to be completed by European government and academic investigators, but should be the subject of a major policy study. Western European governments should assure the representation of such “minorities within

minorities” in all official deliberations involving Islam.

RECOMMENDATION 2: Government and non-governmental organisations concerned to oppose *Shariah* intrusion and radical Islam should carry out serious work to assist non-*Shariah* Muslim legal professionals in organising and maintaining a trans-national professional guild or lobby.

RECOMMENDATION 3: We hold to the traditional Muslim position: Muslims who migrate to Western countries are, in our view, obliged to obey the laws and accept the customs of the countries in which they take up residence, and *Shariah* for them must be limited to strictly personal matters of prayer, ablutions, diet, fasting, charity, male circumcision, and burial. Muslims living in Western Europe must recognise and accept that the protection of Muslim women from abuse is better secured through Western marriage and family law than through *Shariah* schemes.

RECOMMENDATION 4: We propose a strategy of authentically pluralistic integration, based on recognition of and support for the described anti-radical trends, including Barelvism, Alevism, and Berber/Amazigh identity, as well as moderate and traditional Sunnism, Shiism, and Sufism, or spiritual Islam. Adherents of radical Islam will condemn such a policy as a Western effort to divide Muslims; but the radicals propose to artificially, and even violently, impose unity among Muslims. We deem it justified to recognise an existing diversity rooted in centuries of Islamic history. We recognise as a methodological principle that authorities should make analytical distinctions, rather than confusing them. We oppose the erection of “state Islam” in Western Europe, but believe a historical examination of the more positive outcomes for “state Islam” in Russia and the post-Habsburg states, and of the contrast between the two variants, is necessary.

RECOMMENDATION 5: Western European governments need to understand the

transitional character of assimilation, integration, and enclaves, and the positive example of the North American-style melting pot. While radical activities were observed among European and Asian immigrants to the U.S. and Canada, as well as Latin Americans in the U.S. during the 19th and 20th centuries, and continue among some groups, they diminished, and today nobody in the U.S. would suggest that a “Koreatown” represents a threat to American identity, notwithstanding its informal cultural separatism. Western European governments should encourage the rational integration of immigrant communities, rather than vacillating between exclusionary enclavisation and compulsory assimilation, both of which are most notable in France.

RECOMMENDATION 6: There should be no “parallel *Shariah*”, as a separate legal standard, in Western Europe or any other non-Muslim territory. Muslim immigrants, including religious functionaries, should be required to affirm by a signed and sacred oath their obedience to local laws in non-Muslim countries in which they desire to reside. Such a rule is fair, will advance social stability, and as we have sought to show, conforms to traditional Muslim legal thought.

RECOMMENDATION 7: Foreign Islamic institutions in Western Europe, such as the European Council for Fatawa and Research (ECFR), *Tabligh-i-Jamaat*, the Turkish *Diyanet*, *Milli Goruŝ*, the Maghrebi state clerical institutions, and other bodies, should be closely monitored. Financial support from Saudi Arabia, Pakistan, Turkey, and Iran for radical Islamic groups should be interdicted.

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Marje Sistani urges Muslims in West

By Mohamed Ali

MONTREAL, Canada: Iraq's Al-Marje Al-Alaa Ali Sistani sent a message to Muslims in Western nations, urging them to obey the laws of the countries in which they live.

The fatwa was delivered at a Montreal news conference of prominent Shia Muslims on behalf of Ayatullah Sayyed Ali As-Sistani.

"Muslims have undertaken to obey the laws of the country of their residence and thus they must be faithful to that undertaking," the statement read.

It condemned all acts of violence and encouraged imams to keep a watchful eye on what's going on inside their mosques.

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