

MODERN
ISLAMIC
THOUGHT
IN A
RADICAL
AGE

RELIGIOUS AUTHORITY
AND INTERNAL CRITICISM

MUHAMMAD QASIM ZAMAN

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MODERN ISLAMIC THOUGHT IN A RADICAL AGE

Among traditionally educated scholars in the Islamic world there is much disagreement on the crises that afflict modern Muslim societies and how best to deal with them, and the debates have grown more urgent since 9/11. Through an analysis of the work of Muhammad Rashid Rida and Yusuf al-Qaradawi in the Arab Middle East and a number of scholars belonging to the Deobandi orientation in colonial and contemporary South Asia, this book examines some of the most important issues facing the Muslim world since the late nineteenth century. These include the challenges to the binding claims of a long-established scholarly consensus, evolving conceptions of the common good, and discourses on religious education, the legal rights of women, social and economic justice, and violence and terrorism. The debates, marked by extensive engagement with Islam's foundational texts and legal tradition, afford vital insights into the ongoing contestations on religious authority and on evolving conceptions of Islam in the Muslim public sphere. This wide-ranging study by a leading scholar of Islamic intellectual history provides the depth and the comparative perspective necessary for an understanding of the ferment that characterizes contemporary Islam.

Muhammad Qasim Zaman is Robert H. Niehaus '77 Professor of Near Eastern Studies and Religion at Princeton University. He is the author of *Religion and Politics under the Early Abbasids* and *The Ulama in Contemporary Islam*, among other works.

Modern Islamic Thought in a Radical Age

Religious Authority and Internal Criticism

MUHAMMAD QASIM ZAMAN

Princeton University



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Cambridge, New York, Melbourne, Madrid, Cape Town,
Singapore, São Paulo, Delhi, Mexico City

Cambridge University Press
32 Avenue of the Americas, New York, NY 10013–2473, USA

www.cambridge.org

Information on this title: www.cambridge.org/9781107422254

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First published 2012

Printed in the United States of America

A catalog record for this publication is available from the British Library.

Library of Congress Cataloging in Publication Data

Zaman, Muhammad Qasim.

Modern Islamic thought in a radical age : religious authority and internal criticism / Muhammad
Qasim Zaman.

p. cm.

Includes bibliographical references and index.

ISBN 978-1-107-09645-5 (hardback)

1. Islam – 21st century. 2. Islam – Doctrines. 3. Islamic sociology. I. Title.

BP161.3.Z328 2012

297.09'051–dc23 2012011716

ISBN 978-1-107-09645-5 Hardback

ISBN 978-1-107-42225-4 Paperback

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Acknowledgments

It would not have been possible for me to begin, let alone to complete, this book without the financial support of several institutions. These include the Carnegie Corporation of New York and the Institute for Advanced Study, Princeton, both of which awarded me generous fellowships to work on this project, as well as Brown University and Princeton University, which provided additional funding in the form of research leaves. I am especially grateful to Patricia Rosenfield at the Carnegie Corporation and to Patricia Crone at the Institute for Advanced Study for their support and encouragement.

I have incurred many debts of gratitude in the course of my work on this project. For their much appreciated help, comments, advice, and encouragement, I would like to mention, in particular, Lisa Anderson, Zafar Ishaq Ansari, Khalid Aziz, Thomas Biersteker, Dale F. Eickelman, Tarek Elgawhary, David Gilmartin, M. Şükrü Hanioglu, Robert W. Hefner, Vinod K. Jairath, Gudrun Krämer, Naheed Lateef, Waris Mazhari, Farina Mir, Ebrahim Moosa, Fahim Akhtar Nadwi, Madawi al-Rasheed, Armando Salvatore, Andrew Shryock, Amin Usmani, and Amin Venjara. I would also like to thank my students, undergraduate as well as graduate, for opportunities to clarify some of the ideas set forth in this book and for helping me make them more accessible. Above all, I am grateful to Michael Cook for a sensitive reading of an earlier draft. His vast erudition and his astute and unfailingly constructive comments have helped make this a better book. I also thank Marigold Acland, my editor at Cambridge University Press, for her interest in this book and her support. Working with her has been a privilege and a pleasure. Sarika Narula and Shana Meyer oversaw various stages of the book's production and Susan Kauffman of PETT Fox, Inc. copyedited the manuscript. I am deeply appreciative of all their assistance.

I have received a great deal of support from library staff at several institutions. In particular, the librarians and the interlibrary loan and Borrow Direct offices at Brown University, the Institute for Advanced Study, Princeton University, as well as at the Islamic Research Institute, Islamabad, have been crucial to this research. At Princeton's Firestone Library, I would especially like to thank David Magier and Gary Hausman for their help with some hard-to-find materials.

I was privileged to present earlier iterations of some portions of this book at a number of venues. These include Dartmouth College; Harvard University; the

Institute for the Study of Islam in the Modern World, Leiden; the Islamic Research Institute, Islamabad; Lehigh University; Lahore University of Management Sciences; Yale Law School's Middle East Legal Studies Seminar; Oxford University; Princeton University; the Theology Faculty of Ankara University; University of California Los Angeles; University of Hyderabad; and the University of Michigan. I thank the organizers of these lectures and conferences for inviting me, and their audiences for their interest, questions, and comments. With grateful acknowledgment to the publishers, I draw here on some of the material published or forthcoming as articles in Armando Salvatore and Dale F. Eickelman, eds., *Public Islam and the Common Good* (Leiden: Brill, 2004); Gudrun Kramer and Sabine Schmidtke, eds., *Speaking for Islam* (Leiden: Brill, 2006); Andrew Shryock, ed., *Islamophobia/Islamophilia* (Bloomington: Indiana University Press, 2010); *Islamic Studies* (Islamabad), 49 (2010); and David Gilmartin and Usha Sanyal, eds., *Muslim Voices* (Delhi: Yoda Press, forthcoming).

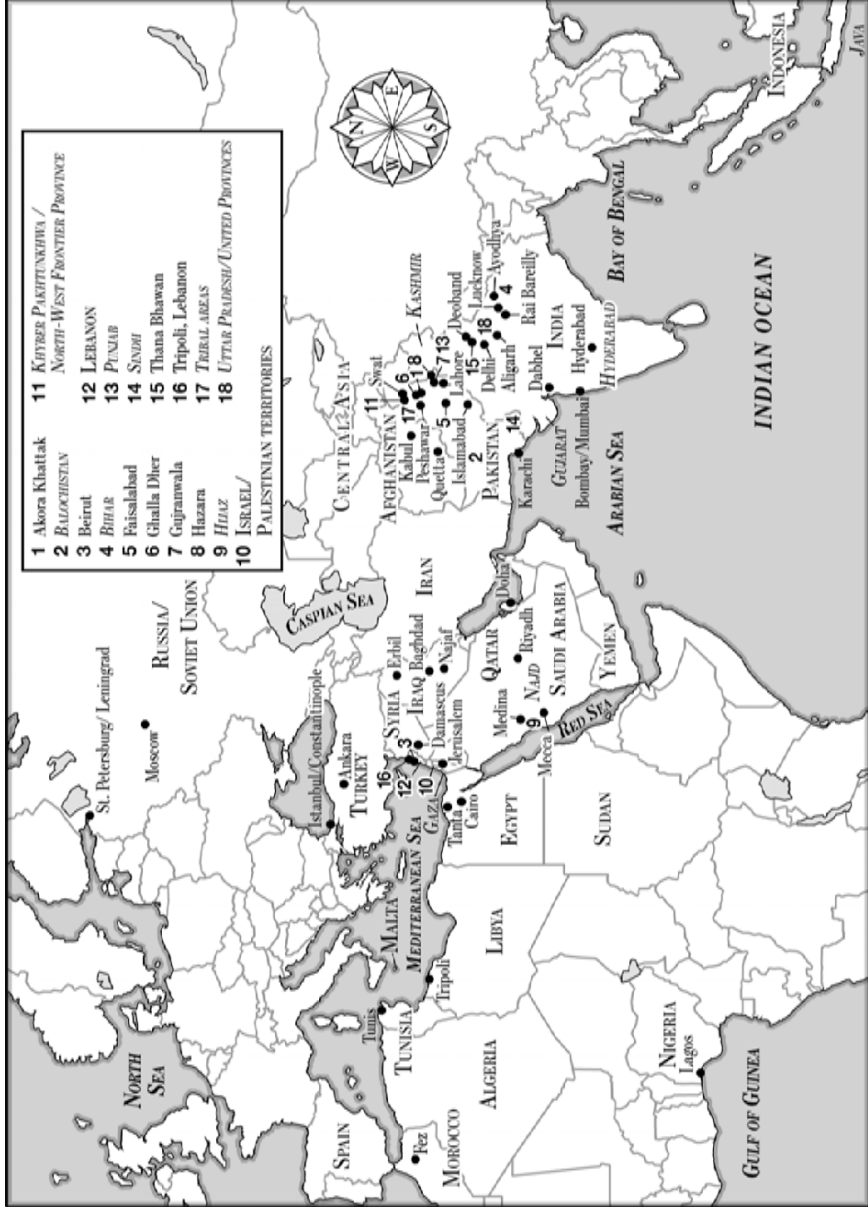
This book has long been in the making. I thank Shaista Azizalam, Zaynab Zaman, and Mustafa Zaman for their forbearance during these years, and for their companionship.

A Note on Transliteration, Spelling, and Other Conventions

With the exception of the ` to signify the Arabic letter `ayn (as in `Umar or shari`a) and ' to represent the *hamza* (as in Qur'an), diacritics are not used in this book. The hamza itself is only used when it occurs within a word (as in Qur'an) but not when it occurs at the end (thus `ulama rather than `ulama'). With the notable exception of the term `ulama (singular: `alim), the plural forms are usually indicated by adding an "s" to the word in the singular, as in madrasas (rather than madaris) or fatwas (rather than fatawa). In the interest of consistency, the spellings of Arabic and Urdu words, and of Muslim names, follow the convention used for Arabic consonants by the *International Journal of Middle East Studies*.

Certain terms that occur repeatedly in the book, such as shari`a and `ulama, are not italicized. Other Arabic and Urdu words are italicized at their first occurrence, but usually not afterwards. When the fuller version of an Arab name is not being used, I also dispense with the Arabic definite article al- (e.g., Yusuf al-Qaradawi but subsequently Qaradawi).

Unless otherwise noted, translated passages from the Qur'an follow M. A. S. Abdel Haleem, *The Qur'an: A New Translation* (Oxford: Oxford University Press, 2004), with occasional and minor modifications.



This map identifies the principal places referred to in the book. Since it is not limited to a single period, some of the place names and what they denote have changed.



Introduction

THIS IS A BOOK ABOUT THE CONTENT, RHETORIC, AND AMBIGUITIES of social and religious criticism in modern Islam. There is considerable contestation in many Muslim circles today on precisely what the “crises” are that afflict Islam and Muslim societies, at whose doorsteps the blame for the provenance or persistence of these crises should be laid, what Islamic norms, institutions, and practices need to be reformed, and on what authority such reform would take place. Muslims of varied intellectual orientations have long discussed such matters, and the debates continue, indeed with especial vigor, in the aftermath of September 11, 2001. Despite their centrality to any sophisticated understanding of religious and political thought, many crucial dimensions of these debates remain little understood, however. What are some major themes in reformist discourses on Muslim institutions, norms, and practices as they have been articulated in the twentieth and early twenty-first centuries? What accounts for the persistence of some of these themes over the course of more than a century and in quite different locales? How do discourses on reform in South Asia and in the Arab Middle East – two regions of great historical, political, and intellectual significance in the modern world – compare with one another? In what ways has the Islamic tradition served simultaneously as the object of social and religious critique as well as the ground on which such critique has often rested? Put differently, what forms has “internal criticism” taken in modern Islam, how does it relate to the specificities of the social, economic, and political context in which it is articulated, and what questions of religious authority are at stake in such criticism? These are among the questions I propose to address in this volume.¹

Certain facets of Islamic thought in the modern world have, indeed, been carefully studied by scholars. Classic studies by Albert Hourani, Malcolm Kerr, and

¹ While recognizing that some scholars would wish to distinguish the connotations of *criticism* and *critique*, I will normally use the two terms interchangeably. On the idea and practice of internal criticism, although not always referred to as such, see Martha Nussbaum and Amartya Sen, “Internal Criticism and Indian Rationalist Traditions,” in Michael Krausz, ed., *Relativism: Interpretation and Confrontation* (Notre Dame: University of Notre Dame Press, 1989), 299–325; Michael Walzer, *Interpretation and Social Criticism* (Cambridge, MA: Harvard University Press, 1987); idem, *The Company of Critics: Social Criticism and Political Commitment in the Twentieth Century* (New York: Basic Books, 1988); Dilip Gaonkar and Charles Taylor, “Block Thinking and Internal Criticism,” *Public Culture* 18 (2006): 453–5. I will return to a brief explication of this idea later in the chapter.

Aziz Ahmad, as well as a number of other books, have examined the contours of *modernist* thought – that is, the work of those seeking to rethink or adapt Muslim institutions, norms, and discourses in light both of what they take to be “true” Islam, as opposed to how the Islamic tradition has evolved in history, and of how they see the challenges and opportunities of modernity. Such studies have necessarily commented, sometimes at length, on the wide-ranging social and political critique modernist Muslim thinkers have directed at representatives of the Islamic religious and scholarly tradition, the *ʿulama* (singular: *ʿalim*), as well as at many others.² *Islamists* – who share much with the modernists in their intellectual backgrounds and in the novelty of many of the positions they advocate, although not the modernists’ enthusiasm for the need to adapt Islam to conditions of modernity – have also engaged in searing critiques of the world around them. Indeed, as political theorist Roxanne L. Euben and I have argued in a recent work, it is useful to see Islamism in general as critique, and one that extends well beyond “Western” institutions, politics, and cultures.³ Other overlapping targets of this critique include facets of the Islamic scholarly tradition, Sufism, particular customary norms as they exist in Muslim societies, Islamic modernism, the westernized political and cultural elite, and, not infrequently, fellow Islamists themselves. Although scholars of contemporary Islam have not usually defined Islamism in this way or explored the implications of this perspective, Islamist thought and activism have, of course, continued to be extensively studied.

It has seldom been adequately recognized, however, that it is not only the Muslim modernists, on the one hand, and the Islamists, on the other, who have engaged in critiques of the Islamic religious and the scholarly tradition. As I hope to show, the traditionally educated religious scholars, who may be thought to have a vested interest in the preservation and defense of their tradition, also have often been vigorous critics of particular aspects of that tradition and, by the same token, important contributors to the debate on reform in Muslim societies.⁴ It is on the

² Albert Hourani, *Arabic Thought in the Liberal Age, 1798–1939* (Cambridge: Cambridge University Press, 1983; first published in 1962); Malcolm Kerr, *Islamic Reform: The Political and Legal Theories of Muhammad ʿAbduh and Rashid Rida* (Berkeley: University of California Press, 1966); Aziz Ahmad, *Islamic Modernism in India and Pakistan, 1857–1964* (London: Oxford University Press, 1967).

³ Roxanne L. Euben and Muhammad Qasim Zaman, *Princeton Readings in Islamist Thought: Texts and Contexts from al-Banna to Bin Laden* (Princeton: Princeton University Press, 2009).

⁴ As observed by Wael Hallaq, *Shariʿa: Theory, Practice, Transformations* (Cambridge: Cambridge University Press, 2009), 3–5, 443–6, the very category of “reform” is not without problems, for it often presupposes a colonial-era narrative in which any norm or practice that falls short of Western expectations is deemed to be in need of repair. Also see Talal Asad, *On Suicide Bombing* (New York: Columbia University Press, 2007), 9, 14. As should be clear, however, my primary interest in this book is not in the sort of reform that is dictated by westernizing, colonial, and post-colonial categories of analysis but rather in how the traditionally educated scholars – who themselves frequently invoke the idea and the necessity of reform – have tried to rethink their tradition from within. I do recognize, though, that it is not always easy to make sharp distinctions between the idea of reform as mobilized by, say, the modernists and how some of the *ʿulama* have used it – a fact that has to do, *inter alia*,

multifaceted critique encountered in the work of such intellectuals and scholars in the Arab Middle East and in South Asia that I primarily focus in this book.

My purpose here, it should be noted, is not merely to document the existence of social and religious critics among the `ulama, or even to show that a critique does not need to rest on secular grounds to qualify as genuine or interesting.⁵ It is rather to try to open a new window onto the Muslim religious and public sphere, the debates on social and legal reform that have been taking place in it since the beginning of the twentieth century, and the accompanying contestations both on religious authority and on evolving conceptions of Islam. In rhetorical as well as substantive terms, many of these debates have remained inconclusive, and there is much by way of tension, ambiguity, and contradiction in them. As will be seen, such tensions are frequently a product of efforts to claim religious authority with reference to a hallowed scholarly tradition, to put it to particular uses, and to reorient it in various ways. They are also generated, of course, by the particular contexts – local, regional, global – in which the various debates take place. In following some key debates and the seemingly interminable disagreements within the ranks of those contributing to them, we will observe how new spaces have continued to be opened in Islamic thought and in the Muslim public sphere. Internal criticism is the lens through which I propose to survey this landscape. However, just as there is no necessary connection between critique and secularism, none should be assumed or expected between critique and “liberal” interpretations of Islam.⁶ If there is much in the discourses of the internal critics that fellow `ulama have found unsettling, policy analysts seeking to identify which groups to bet on in “the war for Muslim minds”⁷ are not likely to find

with the occasionally blurred boundaries between the `ulama, the modernists, and the Islamists. On such fluidity, see Euben and Zaman, *Princeton Readings*, 5–19.

⁵ For a sharp contrast between the religious and the “mystical,” on the one hand, and the rational and the practical, on the other, with the latter alone seen as the site of internal criticism, see Nussbaum and Sen, “Internal Criticism,” esp. 304–6. Even as they show that religious texts and traditions can also contain rational and practical elements, Nussbaum and Sen assume the latter to be clearly separate from the properly religious. Useful correctives to such assumptions are provided, although not with specific reference to this work, by Armando Salvatore, *The Public Sphere: Liberal Modernity, Catholicism, Islam* (New York: Palgrave Macmillan, 2007); and Talal Asad, Wendy Brown, Judith Butler, and Saba Mahmood, *Is Critique Secular? Blasphemy, Injury, and Free Speech* (Berkeley: The Townsend Center for the Humanities, 2009).

⁶ Cf. Charles Hirschkind, *The Ethical Soundscape: Cassette Sermons and Islamic Counterpublics* (New York: Columbia University Press, 2006), 136–7; Marc Lynch, *Voices of the New Arab Public: Iraq, Al-Jazeera, and Middle East Politics Today* (New York: Columbia University Press, 2006), 26–7, 88. The term *liberal* can have quite different connotations, of course, although many of these are broadly shared. (See John Gray, *Liberalism* [Minneapolis: University of Minnesota Press, 1986], ix–xi; Paul W. Kahn, *Putting Liberalism in Its Place* [Princeton: Princeton University Press, 2005], 13–14.) With reference to Islam, I take it to mean understandings and approaches that are non-traditionalist and committed to ideas of the autonomous self as well as to secularism, democracy, and pluralism as they are commonly, if variously, understood in modern Western societies.

⁷ I borrow this phrase from Gilles Kepel, *The War for Muslim Minds: Islam and the West* (Cambridge, MA: Harvard University Press, 2004).

great comfort in them either. Although it will surely not meet everyone's expectations, this book will have fulfilled a good deal of its purpose if it can provide an understanding of some facets of modern and contemporary Islamic thought, its varied contexts, and the provenance and significance of the tensions that run through it.

HISTORICAL SETTING AND DRAMATIS PERSONAE

In 1912, Muhammad Rashid Rida, the editor of the Cairo-based monthly journal *al-Manar*, visited India. He had been invited by Muhammad Shibli Nu'mani (d. 1914), a prominent, traditionally educated religious scholar and one of the founding members of the Nadwat al-'Ulama in Lucknow, to preside over this association's annual meeting that year. Rida, born in a village near Tripoli, now the second-largest city of Lebanon (and not to be confused with the Libyan capital), was a disciple of the well-known Egyptian reformer Muhammad 'Abduh, the grand mufti of Egypt at the time of his death in 1905. *Al-Manar* had begun publication in 1898, and it had come to establish itself as a leading Islamic journal not only in Egypt but also, thanks to new means of communication, wherever in the Muslim world people capable of reading works in Arabic were to be found.⁸ Among non-Arabs, the 'ulama were the people most likely to have that ability, although, as Rida liked to point out, much to the discomfort of many people, not all 'ulama were equally fluent in the language.⁹ One of the goals of the Nadwa was precisely to inculcate this fluency, and it has continued to be a distinctive marker of those graduating from this institution.¹⁰ Unlike many other Indian madrasas, where the Arabic language was taught primarily to enable prospective 'ulama to engage with the Islamic scholarly tradition, the Nadwa sought to make instruction in Arabic a bridge to the contemporary Arab world. Shibli, for one, was a contributor

⁸ On Rida's life and career, see his autobiographical account in Muhammad Rashid Rida, *al-Manar wa'l-Azhar* (Cairo: Matba'at al-Manar, 1934), 133–200. Also see Shakib Arslan, *al-Sayyid Rashid Rida aw ikha arba' in sana* (Damascus: Matba'at Ibn Zaydun, 1937); Ahmad al-Sharbasī, *Rashid Rida sahib al-manar: 'Asruhu wa hayatuhu wa masadir thaqafatihi* (Cairo: al-Majlis al-'a la lil-shu'un al-Islamiyya, 1970); Kerr, *Islamic Reform*; Ahmad Dallal, "Appropriating the Past: Twentieth-Century Reconstruction of Pre-Modern Islamic Thought," *Islamic Law and Society* 7 (2000): 325–58; Dyala Hamzah, "L'intérêt general (*maslaha 'amma*) ou le triomphe de l'opinion: Fondation délibératoire (et esquisses délibératives) dans les écrits du publiciste syro-égyptien Muhammad Rashid Rida (1865–1935)," PhD dissertation, École des hautes études en sciences sociales and Freie Universität Berlin 2008; Ahmad Salah al-Mulla, *Judhur al-usuliyya al-Islamiyya fi Misr al-mu'asira: Rashid Rida wa majallat al-Manar 1898–1935* (Cairo: Matba'at Dar al-kutub wa'l-watha'iq al-qawmiyya, 2008); and Umar Ryad, *Islamic Reformism and Christianity: A Critical Reading of the Works of Muhammad Rashid Rida and His Associates (1898–1935)* (Leiden: Brill, 2009).

⁹ He was also wont to point to errors in the writing of those nonnative speakers who wrote in Arabic: cf. *al-Manar* 30 (1929–30), 273–4. Also see Sayyid Sulayman Nadwi, *Shadharat-i Sulaymani*, 2 vols. (A'zamgarh: Dar al-musannifin, 1990–7), 1: 240.

¹⁰ See Muhammad Qasim Zaman, "Arabic, the Arab Middle East, and the Definition of Muslim Identity in Twentieth Century India," *Journal of the Royal Asiatic Society*, 3rd ser., 8/1 (1998): 59–81.

to *al-Manar*, and his sustained critique of a book on Arab-Islamic culture by a contemporary Christian Arab was being serialized in *al-Manar* at the time of Rida's visit to India.¹¹

Beside the Nadwat al-`Ulama in Lucknow, Rida visited the Dar al-`Ulum of the north Indian town of Deoband and the Muhammadan Anglo-Oriental College in Aligarh as well as several other institutions. The Deoband madrasa, as I would usually refer to it in this book, was founded in 1866, a decade after the formal establishment of British colonial rule in India in the aftermath of the abortive "mutiny" of 1857. Although Hindus as well as Muslims had participated in this ill-fated effort to dislodge the British from India, Muslims tended to fare much more poorly in the wake of the Mutiny. This was not only because its failure formally signaled the end of Muslim rule in India or even because the colonial officials were often more suspicious of the Muslims than they were of other inhabitants of the subcontinent. It was also because Muslims were considerably slower than many of their compatriots in warming to the new styles of education and other institutions characteristic of the colonial economy. The founders of the madrasa at Deoband were convinced, for instance, that the interests of the beleaguered Muslim community were best served not through a wholehearted embrace of English education but rather by way of Islamic learning. The madrasa sought to provide its students with a sophisticated grounding in the Islamic legal tradition, which, in this case, meant the doctrines and methods of the Hanafi school of Sunni law long dominant in India. Unlike earlier madrasas, Deoband also came to privilege the study of hadith, the reported teachings of the Prophet Muhammad, often with an effort to demonstrate their concord with Hanafi norms. Deoband's founders were guided by the conviction that Muslims ought to reorder their beliefs and practices in light of authoritative Islamic texts and turn away from the local customary norms that "true" Islam frowns upon. New generations of `ulama trained at this institution were to provide guidance to the believers in all facets of life, enabling them to live good Muslim lives in spite of the political adversity in which the community at large found itself. By the time Rida visited Deoband, a number of madrasas in other Indian towns and cities had come to be patterned on Deoband, all sharing the reformist Deobandi orientation that now occupies a large part of the Islamic landscape in contemporary South Asia.

The Muhammadan Anglo-Oriental College, founded by Sayyid Ahmad Khan (d. 1898) in 1875 in the north Indian town of Aligarh, was diametrically opposed to Deoband in its orientation.¹² As Sayyid Ahmad saw it, the only effective way in which Muslims could protect their interests under colonial rule was by learning the language and the ways of the British. He was guided in this belief not

¹¹ The author of the work critiqued by Shibli Nu`mani was Jurji Zaydan (d. 1914). On him, see Thomas Philipp, *Ġurġi Zaydan: His Life and Thought* (Beirut: Franz Steiner Verlag, 1979).

¹² For the early history of the college, see David Lelyveld, *Aligarh's First Generation* (Princeton: Princeton University Press, 1978).

only by the sense that Muslims were lagging behind other Indian communities in dealing with the challenges as well as the opportunities created by colonial rule, but also by a dim view of what the `ulama and their institutions had to offer. The `ulama, Sayyid Ahmad and his modernist associates believed, were mired in an anachronistic tradition with little relevance to contemporary needs and, to the extent that they understood the momentous changes around them, their determination to preserve their own claims to authority precluded them from making substantive adjustments to their ways. The alternative, as it had developed by the time Rida visited it in 1912, was a college with an English principal catering to a largely Muslim student population and known above all for its English education.

As will be observed in the following chapters, Rida's views of the `ulama were often similar to those of Sayyid Ahmad. Like his mentor Muhammad `Abduh, who was sometimes compared with Sayyid Ahmad by their contemporaries,¹³ Rida held the `ulama's intellectual sterility to have much to answer for in the decline of Islamic civilization, and he believed that their self-serving factionalism had grievously divided Muslims into hostile camps. Their failure to provide effective guidance to the community had also exposed Muslims to all sorts of cultural, political, and religious inroads, not least from Christian missionaries.

If there were commonalities between `Abduh and Rida, on the one hand, and Sayyid Ahmad, on the other, there were also significant differences. For all his severe criticism of his contemporary `ulama, especially those associated with the millennium-old Azhar of Cairo, `Abduh, in contrast to Sayyid Ahmad, was one of them. His efforts to reform al-Azhar earned him the bitter hostility of the more conservative `ulama, but he could speak their language in ways that Sayyid Ahmad and other modernists, in India, Egypt, or elsewhere, have seldom been able to. Rida, unlike `Abduh, was not educated at an institution as prestigious as al-Azhar and his intellectual formation was considerably more eclectic. However, despite his lifelong opposition to the traditionalist `ulama, he, too, is recognizable as an `alim. He had studied with a number of prominent religious scholars of his time, including Husayn al-Jisr (d. 1909) who, like `Abduh, was himself a graduate of al-Azhar. From al-Jisr, the founder of the Madrasa al-wataniyya al-Islamiyya, he had received a *shahadat al-`alimiyya*, certifying to his credentials as a religious scholar, as well as the permission to teach others.¹⁴ Rida's juridical and exegetical discourses fell squarely within the purview of the `ulama even as his journalistic career went well beyond it. In a 1912 letter to an associate, the aforementioned Shibli

¹³ Muhammad Rashid Rida, *Ta'rikh al-ustadh al-imam al-shaykh Muhammad `Abduh*, 3 vols. (Cairo: Dar al-fadila, 2003; first published 1906–31), 1: 518; Earl of Cromer, *Modern Egypt*, 2 vols. (New York: Macmillan, 1908), 2: 180.

¹⁴ Rida, *al-Manar wa'l-Azhar*, 196; cf. *ibid.*, 139–42. On al-Jisr, see *ibid.*, 139–45; Johannes Ebert, *Religion und Reform in der arabischen Provinz: Husayn al-Gisr at-Tarabulusi (1845–1909) – Ein islamischer Gelehrter zwischen Tradition und Reform* (Frankfurt: Peter Lang, 1991).

Nu'mani had referred to Rida with some exaggeration as “the greatest religious scholar (‘alim) of Egypt and Syria.”¹⁵ Never displeased with being counted among “‘ulama who are famous in Muslim lands”¹⁶ and appropriating that designation when it suited him,¹⁷ Rida clearly saw himself as belonging to the ranks of the “good” ‘ulama whose mission it was to set the “bad” ones right as part of a larger reformist project.

A more important difference has to do with the intellectual and religious orientation of ‘Abduh and Rida, which, unlike Sayyid Ahmad’s, is best characterized as Salafi. In contemporary parlance, the term Salafi has come to acquire many different connotations. It has been used to refer to some groups who consider it obligatory to take up arms against all those – non-Muslims and Muslims – who are deemed to challenge or contravene the dictates of the Islamic foundational texts, the Qur’an and the normative example of the Prophet Muhammad (the *sunna*).¹⁸ At the other end of the spectrum, it refers to a politically quietist trend, typified by the Saudi religious establishment, that rejects all beliefs and practices seen as compromising the oneness of God (*tawhid*) while leaving politics largely to the ruling elite. But the term Salafi is also used for, and by, those who reject the authority of the medieval schools of law and insist on an unmediated access to the foundational texts as the source of all norms. In the late nineteenth and the early twentieth centuries, it was likewise employed as a self-designation by Rida and his associates to denote an approach to Islam that was anchored in the foundational texts and in the example of the “pious forbears” – the *salaf* – as contrasted with understandings of Islam “distorted” by centuries of legal, theological, and mystical debates, self-serving ‘ulama, and despotic rulers.

Not all Salafis agree on how far to go in rejecting the medieval tradition any more than they do on the implications of doing so. Many a Salafi would want to ground all belief and practice in the Qur’an, the sunna, and the example of the pious

¹⁵ Shibli Nu'mani to Mirza Salim, March 25, 1912, in Mushtaq Husayn, ed., *Baqiyat-i Shibli* (Delhi: Azad kitab ghar, 1964), 213.

¹⁶ This characterization was used for him, alongside the then Shaykh al-Azhar Muhammad Mustafa al-Maraghi, Muhammad Bakhit al-Muti'i (a former grand mufti of Egypt) and others, in a juridical query on financial interest sent to him by a mufti from Hyderabad, India: *al-Manar* 30 (1929–30), 273. For a discussion of this query and Rida's response to it, see [Chapter 3](#). Also cf. *al-Manar* 17 (1914), 306, where Rida is introduced as “*al-‘alim al-Islami al-kabir*.”

¹⁷ For instance, in his letter to Lloyd George, the British Prime Minister, in June 1919, where he refers to himself as a “Muslim scholar” (*‘alim muslim*): The National Archives, Public Record Office, FO 371/4232; published in Mahmud Haddad, “Risalat al-Shaykh Rashid Rida ila Lloyd George fi 1919,” *Chronos: Revue d'histoire de l'université de Balamand* 2 (1999): 159–78, at 164, 177. Rida also makes it a point to mention in the letter that “he had presided over the conference of the Nadwat al-‘Ulama [‘the conclave of Muslim scholars’] in India in 1912” (*ibid.*, 165, 177). Also see *al-Manar* 19 (1916–17), 26, where Rida takes it upon himself to respond to a Christian missionary attack on the authenticity of hadith because he did not want the missionaries “to say to Muslims that no one from your ‘ulama was able to defend your normative traditions and your shari‘a.”

¹⁸ On “extremist Salafis” (*al-salafiyya al-mutashaddida*), see Yusuf al-Qaradawi, *Fiqh al-jihad*, 2 vols. (Cairo: Maktabat Wahba, 2009), 1: 200 and *passim*.

forbears as a way of rejecting the cultural, intellectual, and political innovations he sees around him. Others, however, have been convinced that, in clearing the debris of the medieval tradition, true Islam can be shown to be at home in the modern world, to be fully capable of keeping pace with the imperatives of changing times. Yet even as large swaths of the medieval tradition have been jettisoned, facets of it have continued to inform some Salafi discourses. The Hanbali jurist Ibn Taymiyya (d. 1328) received effusive praise from Rida, as he does from other Salafis, and Rida published an early collection of some of Ibn Taymiyya's writings.¹⁹ Rida's discourses on *maslaha*, the common good, were deeply influenced by the Hanbali scholar al-Tufi (d. 1316), and he did much to establish the reputation of the Andalusian Maliki jurist al-Shatibi (d. 1388).²⁰ Significantly, Rida also drew frequently on the exegetical work of Fakhr al-din al-Razi (d. 1209), a Sunni theologian whose rationalist as opposed to narrowly scripturalist approach has usually not recommended itself to other Salafis.²¹ An orientation that sought to draw on the foundational texts together with select facets of the Islamic tradition in responding to what it saw as the challenges of the modern world is the sort of Salafism that best defines the position of `Abduh and Rida.

Finding ways of being at once modern and authentically religious was always foremost among Rida's concerns, and he liked to both shame and inspire his audiences by pointing to non-Muslims as examples of that combination. While in Mumbai (then called Bombay) in March 1912, en route to northern India, he had been especially impressed by the affluence of the Indian Parsi (Zoroastrian) community. Unlike English schools, those run by the Parsi community also taught religion to the students. And even though he was not able to visit the community's schools, Rida had observed Parsi men and women praying at the shore at dawn. "If worshipping the sun and the fire and the ocean does not prevent their secular development (*al-taraqqi al-madani*)," he rhetorically asks, "how, then, can the [rational] religion of nature and God's unity prevent it?"²² Yet unlike even the Parsis, the Muslim modernists and their English-style schools went too far in their quest for worldly progress, jettisoning Islam itself if it could not be shown to accord with their Eurocentric notions. A good deal of Rida's speech at Aligarh would be occupied by an insistence that his audience not compromise on the religious moorings of their identity, which decidedly came from the Islamic foundational texts.

¹⁹ Ibn Taymiyya, *Majmu' at al-rasa'il wa'l-masa'il*, ed. Muhammad Rashid Rida, 5 vols. (Cairo: Matba'at al-Manar, 1922–30); cf. *al-Manar* 15 (1912): 555–6.

²⁰ For Rida's use of al-Tufi and al-Shatibi, see [Chapter 4](#).

²¹ For Rida's invocation of Razi, see [Chapter 2](#). Although it is true that `Abduh had a more expansive view of who the "forbears" were who ought to guide Islamic life and thought (Hourani, *Arabic Thought*, 149, 230–1; cf. Muhammad `Abduh, *al-Islam wa'l-nasraniyya* [Cairo: Matba'at majallat al-Manar, 1905], 167–70), the medieval tradition that informed Rida's discourses was scarcely a very narrow one.

²² *al-Manar* 15 (1912): 619.

There was much political ferment in both the Arab Middle East and South Asia at the time of Rida's trip to India. Libya, part of the Ottoman Empire, was under attack that year and was soon brought under Italian rule. Emboldened by manifest signs of Ottoman military weakness, Greece, Bulgaria, Serbia, and Montenegro had forged alliances that same year to challenge the Ottomans in the Balkans. Here, too, the war had proved disastrous for the Ottomans.²³ Egypt had been a British protectorate since 1882, and Morocco, too, became a French protectorate in 1912. It was not only the Ottoman caliphate – for many the political and religious symbol of Islam even under the control of the secularizing Young Turks and their Committee of Union and Progress – but the Muslim world at large that was at a low ebb. As the American Protestant missionary Samuel Zwemer had observed at a conference in Lucknow in 1911, while reviewing opportunities for Christian proselytism in the “great, dark, despairing, defiant, desperate Moslem world”: “Morocco . . . is typical of the *degradation* of Islam; Persia of its *disintegration*; Arabia of its *stagnation*; Egypt of its attempted *reformation*; . . . India [of] the *opportunity* to reach Islam.”²⁴

Rida, who published an abridged and annotated translation of Zwemer's speech in a 1912 issue of *al-Manar*,²⁵ was acutely aware of the challenges facing Islam. There is no simple way of characterizing his political attitudes, however. The very same year he traveled to the city where Zwemer had delivered his speech, Rida had founded the Madrasat al-da'wa wa'l-irshad (School for Proselytism and Guidance), a Cairo-based institution for training Muslim preachers and scholars capable, inter alia, of combating Christian missionaries. Yet, after his efforts at Turkish sponsorship of this initiative failed, it was British support that he had sought for it.²⁶ For all his anxieties about colonial rule, the Christian missionaries working under its protection, and a new generation of Muslims bent on “blindly imitating” all things Western, Rida was far from being implacably hostile to the British. Part of what made for a complex attitude toward them was a grudging

²³ On the Libyan (Tripolitan) and Balkan wars, see M. Şükrü Hanioglu, *A Brief History of the Late Ottoman Empire* (Princeton: Princeton University Press, 2008), 167–77.

²⁴ Samuel M. Zwemer, “An Introductory Survey” in E. M. Wherry, S. M. Zwemer, and C. G. Mylrea, eds., *Islam and Missions: Being Papers Read at the Second Missionary Conference on Behalf of the Mohammedan World at Lucknow, January 23–28, 1911* (London: Fleming H. Revell Company, 1911), 41–2; emphasis in the original.

²⁵ *al-Manar* 15 (1912): 608–14; for the full report on the conference, *ibid.*, 605–19.

²⁶ Gerard Lowther to Sir Edward Grey, July 6, 1910, FO 407/175: 24872 (Confidential Print: Middle East [electronic resource], http://www.archivesdirect.amdigital.co.uk/Introduction/Confidential_Print/default.aspx#MiddleEast). Also see Gerard Lowther to Sir Edward Grey, October 9, 1910, FO 407/175: 37536 (Foreign Office Files for India, Pakistan and Afghanistan [electronic resource], http://www.archivesdirect.amdigital.co.uk/Introduction/FO_India/default.aspx). The madrasa was overseen by the Association for Proselytism and Guidance (*Jama`at al-da'wa wa'l-irshad*), founded a year earlier. On the Association and its madrasa, see *al-Manar* 14 (1911–12): 114–34, 801–21. The Association's foundation document was signed in March 1911 (*al-Manar* 14 [1911–12], 114–15), and the madrasa began its operation on March 1, 1912, just before Rida's departure for India. *al-Manar* 15 (1912): 226–7.

admiration for the might of the British empire as well as for the Englishmen's commitment to their own culture and traditions²⁷ – which, like the Parsis of Bombay, again reminded him that progress and cultural authenticity need not be antithetical traits. An instinct for self-preservation also shaped Rida's views of the world he inhabited. As he told his audience in India, of all colonial powers, the British provided their subjects the most freedom, and “it was possible for those living under their shadow to develop themselves so long as they followed a rational and sagacious path.”²⁸ His attitude toward the British was no doubt also informed by a poor view of the Young Turks. The latter's rebuff of his proposed madrasa was still fresh in Rida's mind when he had observed, in remarks that were not well received in some Muslim quarters in India, that “the British occupation of Egypt [had been] beneficial and the constitutional government of the young Turks [was] . . . injurious to the interests of the country.”²⁹

There was no mistaking the intrusiveness of even seemingly benign forms of colonialism, however. For instance, and again on a personal level, Rida had been aware of the colonial intelligence's interest in him while in India. As he saw it, he would not have made it to the Nadwa's Lucknow session at all if the governor of the United Provinces had not been persuaded that Rida was a religious rather than a political figure “who did not believe that pan-Islamism (*al-jami`a al-Islamiyya*) had any existence or that it posed any danger to European colonialism.”³⁰ In the same vein, he liked to claim that his Da`wa wa'l-irshad initiative was “purely religious, with no trace of politics.”³¹ British suspicions would nonetheless prevent him from setting up an Indian branch.³² During World War I, there may even have been some talk of exiling him to the Mediterranean island of Malta.³³

His disavowals notwithstanding, pan-Islamism was, indeed, an important facet of Rida's thought. At the very least, it was the implicit pan-Islamic appeal of his journal that had got him invited to the Nadwa's annual session. Notable pan-Islamists like Amir Shakib Arslan (d. 1946) would long be among his close associates.³⁴ And, a decade after his visit to India and on the eve of the abolition of the Ottoman

²⁷ See Chapter 5, n. 21.

²⁸ “al-Khutba al-ra'isiyya fi Nadwat al-Ulama li-sahib al-Manar,” *al-Manar* 15 (1912): 331–41, at 334–5.

²⁹ *Indian Newspaper Reports, c 1868–1942, from the British Library, London*, microform (Marlborough: Adam Matthew Publications Ltd, 2005–): IOR/L/R/5/87, reel 14: United Provinces Newspaper Reports 1912, 488 (citing Aligarh's *Urdu-i Mualla*, May 1912).

³⁰ *al-Manar* 15 (1912): 624. The governor had cited the noted British Orientalist D. S. Margoliouth in support of this view. *Ibid.*, 624.

³¹ *al-Manar* 15 (1912): 929 (Rida's speech to the 1912 meeting of the Jama'at al-Da`wa wa'l-Irshad).

³² *al-Manar* 15 (1912): 928–9.

³³ Arslan, *al-Sayyid Rashid Rida*, 155–6; Mahmoud Haddad, “Arab Religious Nationalism in the Colonial Era: Rereading Rashid Rida's Ideas on the Caliphate,” *Journal of the American Oriental Society* 117 (1997): 268.

³⁴ Arslan, *al-Sayyid Rashid Rida*. On Arslan, see William L. Cleveland, *Islam Against the West: Shakib Arslan and the Campaign for Islamic Nationalism* (Austin: University of Texas Press, 1985).

caliphate, he would write an important treatise proposing the resurrection of the caliphate. By then, as he confided to Arslan, he “preferred [the Turks] to all Europeans . . . even the [Young Turk] atheists, who oppose our language and religion and are contemptuous toward our pious forbears.”³⁵

There are significant fluctuations in Rida’s thought, as the foregoing would suggest. However, for a scholar-journalist deeply engaged with the rapidly changing conditions of his age over the course of a long and prolific career, this should not occasion much surprise. And, in any case, the continuities are at least as notable as the ruptures. The need for Muslim political independence was a relatively consistent feature of his thought and politics, as Mahmoud Haddad has argued.³⁶ So were his Salafi commitments. In time, these would become partially aligned with the conservative Salafis (or Wahhabis) of the Arabian peninsula, but Rida’s reformist bent, and his desire to demonstrate the accord between an Islam anchored in the foundational texts and the imperatives of modern life, would never leave him. On the contrary, such concerns would be as prominent in the very last book he published, two years before his death in 1935,³⁷ as they were in his speeches in India.



AMONG THE PEOPLE RIDA MET IN INDIA WAS `UBAYD ALLAH SINDHI, WHOM HE introduces to the readers of *al-Manar* as the head of the Jam`iyyat al-Ansar.³⁸ Born a Sikh in the Punjab, he had converted to Islam as a youth, spent some time with a Sufi master in Sindh and, as signified by the suffix “Sindhi,” made it his adopted home.³⁹ He subsequently studied at Deoband, where the most important of his teachers was Mahmud Hasan (d. 1920), a revered professor of hadith. At the time of Rida’s visit, Sindhi was a forty-year-old religious scholar who had been summoned from Sindh back to Deoband by Mahmud Hasan to help develop a network of the growing numbers of people who had graduated from this institution. Sindhi’s

³⁵ Rida to Arslan, January 30, 1923, in Arslan, *al-Sayyid Rashid Rida*, 315. Quoted in Haddad, “Arab Religious Nationalism,” 276; I have modified Haddad’s translation.

³⁶ Haddad, “Arab Religious Nationalism.”

³⁷ Muhammad Rashid Rida, *al-Wahy al-Muhammadi*, 5th printing (Cairo: Dar al-manar, 1955).

³⁸ *al-Manar* 16 (1913): 106; cf. *al-Manar* 15 (1912): 621.

³⁹ See `Ubayd Allah Sindhi, “Khud nawisht halat-i zindagi” in idem, *Kabul main sat sal*, ed. Muhammad Sarwar (Lahore: Sindh Sagar Academy, n.d.), 144–60, at 147; Sarah Ansari, *Sufi Saints and State Power: The Pirs of Sind, 1843–1947* (Cambridge: Cambridge University Press, 1992), 78–80. In published form, Sindhi’s “Khud nawisht” is usually appended to his larger autobiographical work, “Seven Years in Kabul” (*Kabul main sat sal*). Other works on his life and thought include Zafar Hasan Aybak, *Ap biti*, 3 vols. (Lahore: Mansur Book House, n.d.); `Abd Allah Laghari, *Mawlana `Ubayd Allah Sindhi ki sarguzasht-i Kabul*, ed. Ghulam Mustafa Khan (Islamabad: Qawmi idara bara-i tahqiq wa thaqafat, 1980); Muhammad Sarwar, *Mawlana `Ubayd Allah Sindhi: Halat-i zindagi, ta`limat, awr siyasi afkar* (Lahore: Sindh Sagar Academy, 1976 [first published in 1943]); Muhammad Hajjan Shaikh, *Mawlana Ubaid Allah Sindhi: A Revolutionary Scholar* (Islamabad: National Institute of Historical and Cultural Research, 1986); and Sayyid Muhammad Ahmad, *Mawlana `Ubayd Allah Sindhi: Hayat, afkar, awr `amal*, ed. `Amir Riyad (Lahore: Takhliqat, 2009).

subsequent activities suggest that the Jam`iyyat al-Ansar may have been intended as something more than an old boys' association.⁴⁰ Rida mentions a debate among Indian Muslims on whether to seek British patronage as a means to improve their lot vis-à-vis the Hindus or to join hands with the latter in opposition to colonial rule.⁴¹ A considerably less audible but equally momentous debate had been taking place on the question of adopting a more radical course. To the extreme discomfort of many in the Deobandi establishment, Sindhi and his mentor, Mahmud Hasan, sought to employ all possible means to undermine British rule, not excluding the resort to force.

Mahmud Hasan was too influential a scholar to be pushed around by the madrasa's administrators. However, Sindhi was expelled from Deoband not long after Rida's visit. He moved to Delhi, where he established what proved to be a short-lived educational institution that sought to create a bridge between the madrasa students and those being educated at institutions like Aligarh. It was at this institution and through Mahmud Hasan that he came into contact with prominent Muslim leaders associated with the Indian National Congress, the Hindu-dominated but secular political organization that would spearhead the cause of Indian independence in the following decades. Shortly after the beginning of the Great War, Mahmud Hasan instructed Sindhi to proceed to India's northwest frontier bordering Afghanistan and home to famously unruly and anti-colonial Pashtun tribesmen, among them some graduates of Deoband. Many others followed the same path, including an Afghan Deobandi scholar Sayf al-Rahman, who was the head of the Fatehpuri mosque-madrasa in Delhi when Rida had visited it.⁴² If Rida had noticed signs of anti-colonial and pan-Islamic ferment in Deobandi circles in India, he did not say so.

These Deobandis sought to help organize the frontier tribesmen with help from the disgruntled Afghan king, whose realm was then a dependency of the British Empire. A grander scheme was to forge an alliance that would enable the Indian revolutionaries to also join forces with the Ottomans and the Germans in evicting the British from India. To this end, Sindhi proceeded to Kabul, arriving there shortly after the German-Turkish Mission had made its way to the Afghan capital in hopes of enlisting the king in the war effort. A "provisional Indian government" was established in Kabul, with a Hindu, Raja Mahendra Pratap, as its president

⁴⁰ This, at least, is how British intelligence saw it. Arab Bureau Papers, 1911–1920, microfilm (Nendeln, Liechtenstein: Kraus-Thomson Organization in cooperation with the Public Record Office, London and H.M. Stationery Office, London, 1973), FO 882/3923/XI: V. Vivian to Arnold T. Wilson, Dec. 7, 1916, with a five-page enclosure, "Summary of the 'Silk Letters Case,'" as well as other information relating to this case. On the self-described aims of this association, see `Aziz al-Rahman, *Tadhkira-i shaykh al-hind* (Bijmore: Idara-i madani, 1965), 168–72.

⁴¹ *al-Manar* 15 (1912): 626–7.

⁴² *al-Manar* 15 (1912): 622. On Sayf al-Rahman, see Sindhi, *Kabul*, 58–9; FO 882/3923/XI: Vivian to Wilson, Dec. 7, 1916 ("Summary") (Arab Bureau Papers); Fuyud al-Rahman, *Mashahir `ulama*, 3 vols. (Lahore: Frontier Publishing House, n.d.), 1: 203–6.

and Sindhi as the home minister.⁴³ Meanwhile, Mahmud Hasan had left for the Hijaz to evade arrest in India and, as the British intelligence saw it, to build ties with the Ottomans. The Hijaz, however, was in the throes of the pro-British and anti-Ottoman Arab Revolt, led by Sharif Husayn b. `Ali of Mecca. After letters from Sindhi to Mahmud Hasan detailing the plans of his Provisional Indian Government were intercepted in India – an intelligence coup that came to be known as the Silk Letters Conspiracy – Mahmud Hasan and his associates were arrested in Mecca and eventually sent to detention on the island of Malta.⁴⁴ They were to remain there until 1920. For its part, Sindhi's stay in Kabul turned into a quarter century of exile. Besides Afghanistan, he spent it in Soviet Russia, Turkey, and for the most part, the Hijaz.

Probably none of Sindhi's contemporaries among the `ulama, in either South Asia or the Arab Middle East, had an opportunity quite like he did to observe a world being remade. By the time King Amanullah (r. 1919–29) signed a treaty in 1921 whereby Britain recognized Afghanistan's sovereignty, he no longer needed Indian revolutionaries like Sindhi to undermine British interests. Within a year of the treaty, Sindhi was forced to leave the country. He passed through Central Asia, where he observed the dire consequences of the Russian revolution for Muslim economic well-being,⁴⁵ and arrived in Moscow in 1923. Sindhi lived there for about seven months. Although he would anchor his social thought in the work of the eighteenth-century north Indian reformer Shah Wali Allah (d. 1762), who figures prominently in the genealogy of Deoband, the experience of living in the Soviet Union shortly after the Russian revolution undoubtedly had a significant effect on his thinking. So did his identification with the Indian National Congress, with its strong social platform. While still in Kabul, Sindhi had founded what purported to be the very first branch of the Congress outside the British Empire;⁴⁶ and his move to Moscow as well as further travels were undoubtedly facilitated by this association.⁴⁷ The Congress was committed to nonviolence, however, which meant

⁴³ On the German-Turkish Mission, see Sean McMeekin, *The Berlin-Baghdad Express: The Ottoman Empire and Germany's Bid for World Power* (Cambridge: Harvard University Press, 2010), 209–29. On the Provisional Indian Government, see FO 882/3923/XI: Vivian to Wilson, Dec. 7, 1916 (“Summary”) (Arab Bureau Papers); Sindhi, *Kabul*, 41–80; Aybak, *Ap biti*, 1: 91–109 (Aybak [1895–1989] was a close associate who had left his studies at the Government College of Lahore to join Sindhi in Kabul; he would accompany Sindhi on some of his subsequent travels as well).

⁴⁴ On these and related events, see Charles Cleveland's three notes on the Silk Letter Case, September 14, 22, and 28, 1916, in FO 686/149: 4–40; S. A. T. Rowlatt, *Sedition Committee 1918 Report* (Calcutta: Superintendent Government Printing, 1919), 176–9. Also see the references in nn. 39–40, 43; Barbara D. Metcalf, *Husain Ahmad Madani: The Jihad for Islam and India's Freedom* (Oxford: Oneworld Publications, 2009), 22–6; Maia Ramnath, *Hajj to Utopia: How the Ghadar Movement Charted Global Radicalism and Attempted to Overthrow the British Empire* (Berkeley: University of California Press, 2011), 185–9, 219–22.

⁴⁵ Zafar Hasan Aybak, *Khatirat*, ed. and abridged by Ghulam Husayn Zulfiqar (Lahore: Sang-i mil Publications, 1990), 227. This work is a one-volume abridgement of Aybak's three-volume *Ap biti*.

⁴⁶ Sindhi, “Khud nawisht,” 155.

⁴⁷ *Ibid.*

that when Soviet authorities reportedly offered to supply arms to revolutionaries in India, Sindhi declined.⁴⁸ There would be many ambiguities in his discourses on how best to bring about social and political change but formally at least, he was henceforth committed to nonviolence. He did, however, remain interested in the ultimately unrealized prospect of securing financial assistance from the Soviets in support of the Congress. This took him to Turkey in July 1923 in the hope that he would be able to communicate with Congress officials better from there than from Moscow.⁴⁹

Sindhi could not have arrived in Turkey at a more dramatic moment. In late 1922, the Turkish Grand National Assembly had decreed the separation of the putatively religious caliphate from the worldly sultanate as well as the termination of the latter. In March 1924, the hallowed caliphate itself would be abolished. A massive, countrywide campaign – the Khilafat Movement – in India had, for several years following the Paris Peace Conference of 1919, been agitating in defense of the Ottoman caliphate and of the Muslim holy cities in the Hijaz. The decision of the Grand National Assembly, together with developments within India, proved to be its undoing. For an Indian revolutionary who had launched his political career as an anti-colonial pan-Islamist, these events could not have been more disorienting. Gradually, his thoughts began to turn away from pan-Islamism and toward the political future of India. As if to underscore this, while still in Istanbul, he had founded the Sarwrajiya Party, an organization that sought to work for Indian independence under the auspices of the Congress with a distinct emphasis on issues of socioeconomic justice and with a nod to nonviolence.⁵⁰ Yet pan-Islam continued to beckon, however distantly. In 1926, Sindhi decided to go to the Hijaz, ostensibly to meet the Muslim political leaders who were planning to attend a conference in Mecca on the caliphate – one of the two that year, the other taking place in Cairo.⁵¹



IMMEDIATELY AFTER THE FORMAL ABOLITION OF THE OTTOMAN CALIPHATE, Sharif Husayn of Mecca had declared himself caliph in 1924. These claims were

⁴⁸ Aybak, *Khatirat*, 260.

⁴⁹ Among those he would meet in Istanbul were Lala Lajpat Rai, a Hindu nationalist returning to India from Britain in 1924, and Dr. M. A. Ansari, a Muslim associated with the Congress. See Sindhi, “Khud nawisht,” 157.

⁵⁰ The name of the organization is a play on Swaraj – the Gandhian goal of “self-rule.” “Sarwraj” means “rule by all.” For the program of the party, see “Note on the Pamphlet ‘The Second Phase of the Movement for Freedom of India . . .’” enclosed with J. H. Adam to J. A. Wallinger, May 5, 1925, OIOC, L/P&12/241, in Indian Political Intelligence (IPI) Files, 1912–1950, microfiche, ed. A. J. Farrington (Leiden: IDC, 2000) (IPI-2). On nonviolence, see “Note on the Pamphlet,” 8; also see the intercepted letter from Istanbul by Zafar Hasan (Aybak) to his brother, dated June 23, 1925, in L/P&12/222 (IPI-16).

⁵¹ On these conferences, see Martin Kramer, *Islam Assembled: The Advent of the Muslim Congresses* (New York: Columbia University Press, 1986); M. Naem Qureshi, *Pan-Islam in British Indian Politics* (Leiden: Brill, 1999), 400–1.

not acceptable to `Abd al-`Aziz ibn Sa`ud, the ruler of Najd in central Arabia, and by the end of 1925, Ibn Sa`ud had brought the Hijaz under his rule. He chose to be a king rather than a caliph, however, gradually consolidating his rule over what became the Kingdom of Saudi Arabia in 1932. The religious and social policies of the state were guided, as they still are, by the teachings of Ibn `Abd al-Wahhab (d. 1792), a Hanbali reformer from Najd who had forged an alliance with an ancestor of Ibn Sa`ud in the mid-eighteenth century.

Although adherents, for the most part, of the Hanbali school, the Saudi religiopolitical establishment is Salafi in its rejection of any beliefs not clearly anchored in the foundational texts. In its single-minded insistence on purity of doctrine, this is a very different sort of Salafism from that of `Abduh and Rashid Rida.⁵² Unsurprisingly, Rida – to return to him briefly – had an ambivalent relationship with the Saudi Salafis. At a time when there were few independent Muslim rulers, he had come to admire Ibn Sa`ud's political success in the Arabian peninsula; for his part, the Saudi king was known to seek his counsel.⁵³ For all his disdain for the medieval schools of law, Rida had a certain affinity with the Hanbalis, whose school of law was dominant in Saudi Arabia. Nor was he above receiving some financial assistance from the Saudi king.⁵⁴ Even so, Rida found the contemporary Saudi `ulama embarrassingly innocent of modern sensibilities, and he did not fail to comment on this. By the same token, his own lifelong concern to demonstrate the accord of Islam with the modern world would have been anathema to many of them. Even as he defended them against their many detractors, he could never be mistaken for a Salafi in the Wahhabi mold.⁵⁵

With a constant traffic of pilgrims and with residents from many parts of the Muslim world, the Hijaz was among the most cosmopolitan regions of the Arabian peninsula, and it did not give up this character easily under Saudi rule. Despite efforts to consolidate Wahhabi influence in the Hijaz and elsewhere, Ibn Sa`ud

⁵² For a critical evaluation of Rida from the perspective of contemporary Salafism, which concludes however that he was closer to the Salafi view of tawhid and related doctrines than he was to any other orientation, see Tamir Muhammad Mahmud Mitwalli, *Manhaj al-shaykh Muhammad Rashid Rida fi'l-`aqida* (Jedda: Dar Majid al-`Asiri, 2004).

⁵³ Norman Mayers to Austen Chamberlain, December 4, 1926, enclosure on "Jeddah Report for the period October 1 to October 31, 1926," FO 406/58: E 6656/367/91; reprinted in Robert L. Jarman, ed., *The Jeddah Diaries, 1919–1940*, 4 vols. (London: Archive Editions, 1990), 2: 417.

⁵⁴ S. R. Jordan to A. Chamberlain, July 28, 1926, FO 406/58: E 4921/20/91 ([Confidential Print: Middle East] on Rida receiving "a sum of £2,000 from Ibn Saud for the prosecution of Saudist propaganda in Egypt"). Rida's publication of a medieval legal work was also assisted by Saudi funds: Muhammad Rashid Rida, "Kalima fi fawa'id *Kitab al-mughni*," in *al-Mughni li-Ibn Qudama*, ed. Muhammad Rashid Rida, 3rd printing (Cairo: Dar al-manar, 1948; the first edition had begun to be published in 1928), 1: 16.

⁵⁵ For an important study of a twentieth-century Moroccan associate of Rida and of the transition from the modernist Salafism of Rida to Saudi-dominated Wahhabi Salafism, see Henri Lauzière, "The Evolution of the Salafiyya in the Twentieth Century through the Life and Thought of Taqi al-din al-Hilali," PhD dissertation, Georgetown University, 2008. For an early collection of Rida's writings on the Wahhabis, see *al-Wahhabiyyun wa'l-Hijaz* (Cairo: Matba'at al-Manar, 1926). For Rida's comment on a Najdi (Wahhabi) scholar who denounced anyone believing that the earth is round, see *al-Manar* 29 (1928–9): 121–2; cf. Lauzière, "Evolution," 159–60.

remained attentive for many years to a broad array of scholars. In 1929, the office of the British consul in Jeddah reported that Sindhi had been appointed to teach in the holy mosque of Mecca by the king, “with whom he had considerable influence and by whom he is constantly consulted.”⁵⁶ An earlier report from the same year had noted that he “appear[ed] to carry much weight as a religious teacher and . . . [to be] much frequented by Indians.”⁵⁷ The nature of this influence is unclear, but it seems to have declined over the years. Overall, Sindhi kept a low profile, continuing to interact with the local scholars, with Mecca’s ample pilgrims, and with some others, but far from indiscriminately. For instance, a prominent Russian Tatar `alim, Musa Jar Allah Bigiyef (d. 1949), who had hosted Sindhi in Leningrad,⁵⁸ heard and transcribed Sindhi’s commentary on the Qur’an in Mecca and would later publish it in Arabic.⁵⁹ And when Sindhi published Wali Allah’s Arabic commentary on the *Muwatta* of Malik b. Anas, a major legal text from the second century of Islam, it was with the financial assistance of Nadir Shah (r. 1929–33), then the king of Afghanistan whom he had come to know during his years in Kabul, that he did so.⁶⁰ However, when Shakib Arslan visited Mecca in 1934, Sindhi made it a point to avoid him. He had met Arslan in Lausanne in 1926, while traveling from Turkey to the Hijaz. But pan-Islamism was now largely behind him. He was also keen not to arouse the suspicion of the British who, he knew, kept a watchful eye on Indians through their agents in the Hijaz or, for that matter, of the Saudis.⁶¹ Nor does he seem to have been among the people meeting

⁵⁶ W. L. Bond to A. Henderson, November 18, 1929, with enclosure on “Jeddah Report for the period September 1 to 30, 1929,” FO 406/64: E 6006/94/91 (#26); reprinted in Jarman, *Jedda Diaries*, 3: 88.

⁵⁷ Bond to Henderson, June 29, 1929, enclosure on “Jeddah Report for the period May 1 to 31, 1929,” FO 406/64: E 3297/2322/91 (Confidential Print: Middle East).

⁵⁸ Aybak, *Khatirat*, 251.

⁵⁹ `Ubayd Allah Sindhi, *Ilham al-Rahman fi tafsir al-Qur’an*, compiled by Musa Jar Allah [Bigiyef] (Karachi: Bayt al-hikma, n.d.); on Bigiyef, see Ahmet Kanlidere, *Reform within Islam: The Tajdid and Jadid Movement among the Kazan Tatars (1809–1917)* (Istanbul: Eren, 1997).

⁶⁰ Muhammad Sarwar, *Ifadat wa malfuzat-i hadrat mawlana `Ubayd Allah Sindhi* (Lahore: Sindh Sagar Academy, 1972), 42. For Wali Allah’s work, published with annotations by Sindhi, among others, see Shah Wali Allah, *al-Musawwa sharh al-Muwatta* (Beirut: Dar al-kutub al-`ilmiyya, 1983). This work was first published in 1933. See Rida’s review of it in *al-Manar* 34 (1934–5): 236–8. Nadir Shah’s financial assistance to Sindhi probably had as much to do with their prior acquaintance as with the king’s effort to counteract efforts by the ex-king Amanullah to win support in his bid to regain his throne. See n. 62.

⁶¹ Undated letter of Sindhi to Iqbal Shaida’i in Abu Salman Shahjahanpuri, ed., *Makatib-i Mawlana `Ubayd Allah Sindhi* (Karachi: Mawlana `Ubayd Allah Sindhi Academy, 1997), 122–5. Arslan had visited Mecca in 1929 (to perform the pilgrimage) and then again in 1934 (to help mediate in a dispute between the Saudis and the ruler of Yemen). Sindhi’s reference seems to be to the latter visit. (On Arslan’s visits to Mecca and his relations with Ibn Sa’ud, see Cleveland, *Islam against the West*, 66–89.) Sindhi’s letter to Shaida’i was evidently written toward the very end of Sindhi’s stay in Mecca because it highlights a cryptic reference to him in Arslan’s biography of Rida. This biography was first published in 1937. For the passage to which Sindhi refers in his letter, see Arslan, *al-Sayyid Rashid Rida*, 409, n. 1. Sindhi’s caution was not misplaced. Around the time Sindhi was writing to Shaida’i, the British Foreign Office was instructing its staff to include Arslan’s name in the list of “aliens to whom visas for India should not be granted without prior reference.” See OIOC,

Amanullah, the ex-king of Afghanistan who harbored ambitions of being restored to the throne, when he visited the Hijaz in 1935.⁶² Sindhi's years in the Hijaz were spent instead in scholarly pursuits, with a particular focus on the writings of Shah Wali Allah.

Much had changed by the time Sindhi was allowed back into India, in 1939, through the efforts of the Indian National Congress.⁶³ However, there were also significant continuities. The anti-colonialism remained, but not the radicalism of his early years in Kabul. Instead, and for all the continuing stridency of his language, he now professed adherence to Gandhian nonviolence.⁶⁴ Unlike many a convert wishing to break completely with the religion he had renounced, Sindhi had long wanted to find a way to improve relations among members of India's varied religious communities. This aspiration took on greater vigor with his pan-Islamist disillusionments. Efforts toward reducing the distance between products of madrasas and westernized institutions of learning continued, and so did the conviction that the Qur'an needed to be introduced afresh to all parties. A key focus of his interests was now on issues of socioeconomic justice, and this is the lens through which both the Qur'an and Wali Allah were most often seen.

Although not the most distinguished of the Deobandi `ulama in terms of his influence and scholarly standing, Sindhi is, by far, the most vocal internal critic the Deobandis have ever known. And he has left a large imprint on the Deobandis. He has continued to be celebrated, in and outside Deobandi circles, for his role in the anti-colonial struggle, and on this almost all parties agree.⁶⁵ In other respects, his legacy has been more contentious. Sindhi is arguably the best-known interpreter of Wali Allah in modern South Asia, and Wali Allah, for his part, enjoys a prestige as an early modern reformist thinker that remains unparalleled by any other scholar. However, many Deobandis have not been altogether comfortable with Wali Allah's

L/P&/12/517, memo from Passport Control Department to the government's consular and passport control officers, March 30, 1937 (IPI-2).

⁶² On the 1935 visit, see A. Ryan to Foreign Office No. 69, March 21, 1935, L/P&/12/122 (IPI-15). Sindhi is not mentioned here. The ex-Afghan king had visited Mecca in 1931 as well (A. Ryan to A. Henderson, July 4, 1931, with enclosure on "Jedda Report for March and April 1931," p. 12, FO 406/68: E 3462/81/25; reprinted in Jarman, *Jedda Diaries*, 3: 210). Sindhi is mentioned here among "the most notable persons concerned in or with Amanullah's visit to Mecca," although there is no clear indication that Sindhi did actually meet the king on this occasion.

⁶³ Sindhi, "Khud nawisht," 159. Cf. R. Bullard to Viscount Halifax, March 1, 1939, FO 371/23271: E 2453 (#111); reprinted in *Jedda Diaries*, 4: 403.

⁶⁴ Sindhi, "Khud nawisht," 160; idem, *Khutbat wa maqalat-i Mawlana `Ubayd Allah Sindhi*, ed. Muhammad Sarwar (Lahore: Sindh Sagar Academy, 1970), 135.

⁶⁵ For instance, Husayn Ahmad Madani, *Naqsh-i hayat*, 2 vols. (Karachi: Bayt al-tawhid, n.d.), 2: 549–600; Asjad Madani, *Jang-i azadi main Jam`iyyat `Ulama-i Hind ki khidmat aik nazar main* (Delhi: Shu'ba-i nashr wa isha'at-i Jam`iyyat `Ulama-i Hind, n.d., in South Asia Ephemera Collection, I-CLR-439.1), 9–10; Razi Ahmad Kamal, ed., *Jam`iyyat `Ulama-i Hind: Dastawizat-i markazi ijlasha-i `am, 1948–2003* (Delhi: Shu'ba-i nashr wa isha'at, Jam`iyyat `Ulama-i Hind, 2004), 615, 715, 721; Muhammad Taqi `Uthmani, *Tabisire*, ed. Muhammad Hanif Khalid (Karachi: Maktaba-i ma'arif al-Qur'an, 2005), 480.

ideas, and Sindhi's interpretation of Wali Allah's thought has tended to exacerbate that discomfort. While some scholars in the Deobandi tradition have continued to be drawn to Sindhi's interpretations of Wali Allah,⁶⁶ others have sought to marginalize him in an effort to reclaim Wali Allah without yet being able to erase Sindhi from the picture.⁶⁷

As will be seen in the following chapters, Sindhi's importance rests not only in his political action, to which much of the scholarly attention has so far been limited, but also in his substantial scholarly oeuvre. His writings represent a different facet of Deobandi Islam than is commonly seen in the fatwas, the hadith-commentaries, and the numerous other books of "mainstream" Deobandis. And yet, his work expresses ideas and tensions – among them, the need to take the local context seriously in thinking about the Islamic tradition, finding common ground both between Muslims of different intellectual formations and between Muslims and non-Muslims,⁶⁸ and, not least, attention to questions of socioeconomic justice – that resonate more broadly even among the Deobandis than many have wished to acknowledge.⁶⁹ It is both his challenge to fellow `ulama and their responses, direct as often as indirect, that merit attention for what they can illuminate about internal criticism as well as religious authority.



THERE IS MUCH IN THE FLUID AND RAPIDLY CHANGING WORLD OF THE LATE nineteenth and early twentieth centuries that the life and career of Rashid Rida and of `Ubayd Allah Sindhi allow us to glimpse: colonial rule in the Middle East and North Africa; the demise of the Ottoman caliphate; pan-Islam and its discontents; the rise of a new order in Russia, in Turkey, and in Arabia; competing forms of Salafism; and, not least, the flow of people and ideas between South Asia and the Arab Middle East. The second half of the twentieth century and the first years of the twenty-first are at least as momentous. Few lives permit a better overview of this age than that of Yusuf al-Qaradawi (b. 1926).⁷⁰

⁶⁶ See, for instance, `Aziz al-Rahman, *Tadhkira-i shaykh al-hind*, a biography of Mahmud Hasan, which reprints, as preface, an essay by Sindhi on "Shah Wali Allah and His Movement": 15–42. Also see Zafir al-din [Miftahi], *Ta`aruf-i makhtutat-i kutub khana-i Dar al-`Ulum Deoband*, 2 vols. (Deoband: Dar al-`Ulum, 1970–3), 2: 81, characterizing Sindhi as "the most precious pearl (*durr-i shahwar*) of the Deobandi school of thought." Miftahi (d. 2011) was, for long, a jurisconsult (*mufti*) at the Deoband madrasa and the editor of its principal collection of fatwas. More recently, he served as the president of Islamic Fiqh Academy of India (on which see [Chapter 2](#)).

⁶⁷ See [Chapter 7](#), n. 112.

⁶⁸ Cf. Kamal, *Jam`iyyat `Ulama-i Hind*, 615 (presidential address by Sayyid As`ad Madani to the 1995 general session of the Jam`iyyat `Ulama-i Hind, invoking Sindhi and several others on interreligious harmony).

⁶⁹ For a grudging early acknowledgment of this, see Sayyid Sulayman Nadwi's letter to `Abd al-Majid Daryabadi, June 5, 1945, in `Abd al-Majid Daryabadi, ed., *Makhtubat-i Sulaymani*, 2 vols. (Lucknow: Sidq-i jadid Book Agency, 1963), 1: 160.

⁷⁰ The most detailed source on Qaradawi life is his autobiography: Yusuf al-Qaradawi, *Ibn al-qarya wa'l-kuttab: Malamih sira wa masira*, 3 vols. to date (Cairo: Dar al-shuruq, 2002–6). I have also drawn on Jakob Skovgaard-Petersen, "Yusuf al-Qaradawi and al-Azhar," in Bettina Gräf and Jakob

Although the massive reorganization of al-Azhar under President Gamal `Abd al-Nasir (“Nasser” [r. 1954–70]) was still some years in the future when Qaradawi passed the exams credentialing him as a religious scholar (*shahadat al-`alimiyya* – he did so in 1954), change at this venerable institution of learning was very much in the air as he was growing up. In 1930, the Azhar had been reconstituted into three distinct faculties: Islamic theology, law, and Arabic language and literature;⁷¹ in 1961, a number of new faculties concerned with secular, Western forms of knowledge would be added as part of its reorganization. Qaradawi was too young to know Rashid Rida, a lifelong advocate of reform at al-Azhar, but one of Rida’s allies, Muhammad Mustafa al-Maraghi (d. 1945), was still the rector of al-Azhar (*Shaykh al-Azhar*) while Qaradawi was pursuing his studies in Tanta.⁷² Maraghi also played an important role in extending the Azhar’s influence outside Egypt,⁷³ a facet of internationalization that Qaradawi would come to embody at the beginning of the twenty-first century. Following his graduation, Qaradawi also had some association with another leading reformer, Mahmud Shaltut (d. 1966), the Shaykh al-Azhar who oversaw Nasser’s reform of this institution.⁷⁴ As will be observed in the following chapters, the reform of the `ulama’s tradition – and of al-Azhar as its bastion – figures prominently in Qaradawi’s discourses, and the changes this institution was undergoing in his youth significantly shaped his own thinking.

Qaradawi has had a life-long association with the Muslim Brotherhood, one of the most influential of Islamist organizations in the Sunni world. Its founder, Hasan al-Banna (d. 1949), whom Qaradawi had first heard speak in 1940, had wanted to cast a wide net. As he had explained it at the party’s fifth convention in 1938, the Muslim Brotherhood “encompassed all reformist connotations: . . . it was a Salafi call . . . , a Sunni path . . . , a Sufi reality . . . , a political organization . . . , an athletic group . . . , an intellectual and cultural league . . . , an economic company . . . , and a

Skovgaard-Petersen, *Global Mufti: The Phenomenon of Yusuf al-Qaradawi* (New York: Columbia University Press, 2009), 27–53, and other essays in this collection. Also see Bettina Gräf, *Medien-Fatwas@Yusuf al-Qaradawi: Die Popularisierung des islamischen Rechts* (Berlin: Klaus Schwarz Verlag, 2010).

⁷¹ Skovgaard-Petersen, “Yusuf al-Qaradawi and al-Azhar,” 32.

⁷² For Qaradawi’s positive view of al-Maraghi, see *Ibn al-qarya*, 1: 197–9, 2: 210. Skovgaard-Petersen is mistaken in saying that Qaradawi spoke at the funeral of al-Maraghi on behalf of students of the Azhar institutes (Skovgaard-Petersen, “Yusuf al-Qaradawi and al-Azhar,” 31). It was at the funeral of al-Maraghi’s successor Mustafa `Abd al-Raziq that Qaradawi would speak (Qaradawi, *Ibn al-qarya*, 1: 214–15).

⁷³ Rainer Brunner, “Education, Politics, and the Struggle for Intellectual Leadership: al-Azhar between 1927 and 1945,” in Meir Hatina, ed., *Guardians of Faith in Modern Times: `Ulama in the Middle East* (Leiden: Brill, 2009), 109–40, esp. 137. Maraghi was also a keen supporter of efforts to have the Egyptian king, Faruq (r. 1936–52), recognized as caliph, and he had sent Egyptian `ulama to several countries, including India, to popularize this idea. See the letter from the British ambassador in Egypt to Secretary of State for Foreign Affairs, March 25, 1938, FO 371/21838; reprinted in Jane Priestland, ed., *Records of Islam 1908–1972*, 12 vols. (London: Archive Editions, 2004), 6: 668. Also see Israel Gershoni and James P. Jankowski, *Redefining the Egyptian Nation, 1930–1945* (Cambridge: Cambridge University Press, 1995), 158–63.

⁷⁴ Qaradawi, *Ibn al-qarya*, 2: 281–4; *ibid.*, 1: 416.

social idea.”⁷⁵ Like many other religiously oriented young men of his age, Qaradawi was immediately drawn to it. He was an articulate speaker, and the organization eagerly used his skills to spread its message. However, it was not long before the association with the Brotherhood landed him in trouble. As relations between the government and the Brotherhood deteriorated, Qaradawi was among those jailed in 1947, and he was in prison when al-Banna was assassinated at the behest of the government in 1949 in retaliation for the murder of the Egyptian prime minister at the hands of a member of the Brotherhood. The 1952 coup of the Free Officers offered a brief respite because some of them were sympathetic to the Brotherhood. However, early hopes of cooperation gave way to increasing tension and a persecution far more systematic than the Brothers had experienced before. In 1954, the Brotherhood was accused of a plot to assassinate Nasser, and several of its top leaders were executed. Qaradawi was again among those imprisoned on this occasion.⁷⁶

The inmates were occasionally tortured,⁷⁷ but the conditions were not uniformly harsh and Qaradawi’s intellectual formation continued during this two-year-long internment. There were times when the inmates were allowed to read, congregate, and converse, and some of these discussions seem to have had a significant effect on him. He reports, for instance, discussing a legal work by the eighteenth-century Yemeni jurist al-Shawkani (d. 1834) while in prison. Among those participating in the discussion was a detainee who had studied economics, and this brought home to him, Qaradawi says in anticipating a major theme in his writings, how people with different specialties could enrich one another – “as opposed to cultural isolation, which only produces stagnation and abstruseness.”⁷⁸ There also were discussions on rethinking the position of women. And Qaradawi took the opportunity to explicate to his fellow prisoners some of the ideas al-Banna had outlined in the “Twenty Principles,” a short tract intended to guide fellow travelers.⁷⁹ Decades later, Qaradawi would write elaborate commentaries on ideas enunciated in this programmatic work by Banna.⁸⁰

Although he was able to find employment upon his release, first at the ministry of religious endowments (*awqaf*) and then, in a non-teaching position, at al-Azhar,

⁷⁵ Hasan al-Banna, *Majmu’at rasa’al al-imam al-shahid Hasan al-Banna* (Beirut: Dar al-Andalus, 1965), 248–50; Richard P. Mitchell, *The Society of the Muslim Brothers* (London: Oxford University Press, 1993), 14.

⁷⁶ Qaradawi, *Ibn al-qarya*, 2: 100–201.

⁷⁷ *Ibid.*, 2: 114–20, 156–60.

⁷⁸ *Ibid.*, 2: 188.

⁷⁹ *Ibid.*, 2: 189–91.

⁸⁰ For works in this series, see Yusuf al-Qaradawi, *Nahw wahda fikriyya lil-`amalin lil-Islam* (Cairo: Maktabat Wahba, 1991); idem, *al-Marja’iyya al-`ulya fi’l-Islam lil-Qur’an wa’l-sunna* (Cairo: Maktabat Wahba, n.d. [1992]); idem, *al-Siyasa al-shar’iyya fi daw nusus al-shari’a wa maqasidiha* (Beirut: Mu’assasat al-risala, 2000); idem, *Kayfa nata`amal ma`a’l-turath wa’l-tamadhhub wa’l-ikhtilaf* (Cairo: Maktabat Wahba, 2001 [hereafter *Turath*]); idem, *Fusul fi’l-`aqida bayna’l-salaf wa’l-khalaf* (Cairo: Maktabat Wahba, 2005).

Qaradawi's association with the Muslim Brotherhood had closed many doors to him. There was, and has long been, a market for Azhar-trained scholars in the Middle East and elsewhere, however, and when the opportunity arose to go to Qatar to lead an educational institution, he took it eagerly. He would henceforth live in Qatar.

The Egypt that Qaradawi left in 1962 was "hell"⁸¹ for the Muslim Brothers – "one large prison"⁸² for people opposed to the Nasser regime – but it was also the throbbing heart of the Arab world and the seat of Arab nationalism. Nasser had stood against the combined attack of Britain, France, and Israel on Egypt in 1956, and this had created a heroic image for him in and beyond the Arab world. This image was dexterously cultivated through the Egyptian radio – the Voice of the Arabs – and through other means. It was a mark of its pan-Arab appeal that Syria had decided to become part of a union with Egypt to form the United Arab Republic (1958). Saudi Arabia, for its part, was sufficiently threatened by Nasser's pan-Arabism and Arab socialism to sponsor its own pan-Islamic initiatives in response. Among these was the Muslim World League founded in 1962 with its headquarters in Mecca.⁸³ By the time of his death in 1970, Nasser's appeal had long passed its peak: far from serving as a model of Arab unity, Syria and Egypt had parted ways within just three years of their union, the promises of Arab socialism had borne little fruit, and Egypt's defeat by Israel in 1967 had been an enormous shock to the Arab and Muslim world. Even so, Nasser had retained considerable personal appeal. His funeral was the biggest anyone had ever seen in Egypt, and – much to the chagrin of many among the Muslim Brothers – even Qaradawi attended a condolence meeting in Doha, the capital of Qatar.⁸⁴



PRESENT-DAY QATAR IS A VERY DIFFERENT PLACE FROM WHAT IT WAS IN Qaradawi's early years there. It was still a British protectorate (it would declare full independence in 1971), and the Indian Rupee was still commonly used as the unit of currency.⁸⁵ Until 1970, it did not have a radio station of its own, with people listening to Egyptian radio;⁸⁶ television came later still. Yet it was already on its way to reaping the rewards of its oil resources: production grew from 2,000 to 570,000 barrels a day between 1949 and 1973.⁸⁷ Now estimated to possess no less than a third of the world's oil reserves and one of the biggest natural gas reserves,

⁸¹ Qaradawi, *Ibn al-qarya*, 2: 350.

⁸² *Ibid.*, 3: 222.

⁸³ On this organization, see Reinhard Schulze, *Islamischer Internationalismus im 20. Jahrhundert* (Leiden: Brill, 1990); cf. Qaradawi, *Ibn al-qarya*, 3: 81–2.

⁸⁴ Qaradawi, *Ibn al-qarya*, 3: 207–9.

⁸⁵ *Ibid.*, 2: 359–60.

⁸⁶ *Ibid.*, 3: 91, 189.

⁸⁷ Jill Crystal, *Oil and Politics in the Gulf: Rulers and Merchants in Kuwait and Qatar* (Cambridge: Cambridge University Press, 1990), 112.

Qatar had a GDP of \$98.3 billion in 2008.⁸⁸ With a population of only 1.6 million in 2010, of which a mere 15 percent are citizens, Qatar now has one of the highest per capita incomes in the world.⁸⁹

Political tensions have come with wealth. Factionalism has remained endemic to the royal family, and rulers were forced to abdicate in favor of other family members in 1949, in 1960, and most recently, in 1995.⁹⁰ That the overwhelming population of the country comprises people who are not citizens, including many from South Asia and elsewhere who live as highly vulnerable guest workers, also creates at least the potential for instability, as does the perception of the Qatari minority that, for all their privileges, the most desirable jobs go to skilled foreigners.⁹¹ However, its massive revenues have also created the desire to assert a presence on the world stage quite out of proportion with its miniscule size. There is no better illustration of this than the al-Jazeera (often spelled “Al-Jazeera”) satellite television, established in 1996 with the financial and political backing of the emir of Qatar.

Although housed in a country governed by an authoritarian regime, al-Jazeera, since its inception, has been a source of much discomfort to other authoritarian regimes: its talk shows have allowed contentious political and religious views to be aired, and its news reports and graphic images have revealed facets of the Arab and Muslim world that are seldom seen on Arab television. In the popular unrest sweeping the Arab world since late 2010, it was widely credited with contributing to anti-regime sentiment in Tunisia, Egypt, and elsewhere.⁹² It was also prominent in telecasting news reports, images, and political commentary on the U.S.-led wars in Afghanistan and Iraq in the aftermath of September 11, 2001, in ways distinctly unfavorable to the United States. And on several occasions, it was the first news channel to receive and telecast speeches and statements by Usama Bin Laden (d. 2011). Ironically, Qatar is home to one of the largest U.S. military bases in the Middle East, and since coming to power in 1995, the emir of Qatar has pursued a distinctly pro-American policy. The government’s patronage of al-Jazeera has, however, continued unabated.

Unlike most other people living in Qatar, Qaradawi was granted Qatari citizenship some years after his arrival in this Persian Gulf state. It is a mark of his religious appeal but also of his political skills that, despite forced abdications, he has continued to enjoy the patronage of the ruling elite in his adopted home. Already before his arrival, a practice had been instituted of sending Azhar-trained scholars to give

⁸⁸ Mehran Kamrava, “Royal Factionalism and Political Liberalization in Qatar,” *Middle East Journal* 63/3 (2009): 401–20, at 401; Simon Romero, “Qatar Finds a Currency of its Own: Natural Gas,” *The New York Times*, December 22, 2005.

⁸⁹ Romero, “Qatar Finds a Currency”; Michael Slackman, “Affluent Qataris Seek What Money Cannot Buy,” *The New York Times*, May 13, 2010: A7.

⁹⁰ Kamrava, “Royal Factionalism,” 412; Crystal, *Oil and Politics*, 112–70.

⁹¹ Slackman, “Affluent Qataris.”

⁹² Robert F. Worth and David D. Kirkpatrick, “Seizing a Moment, Al Jazeera Galvanizes Arab Frustration,” *The New York Times*, January 28, 2011: A1.

lessons and lectures during the month of Ramadan in Qatari mosques. Qaradawi had the opportunity to do so during his first Ramadan in Qatar in the presence of the crown prince himself. As he notes in his memoirs, the crown prince, Shaykh Khalifa b. Hamad, quickly took a liking to him. Qaradawi would continue this practice of delivering his teaching lessons in Shaykh Khalifa's presence even after he became the emir, for a full thirty-five years until the end of Khalifa's rule in 1995.⁹³ The patronage continued with the new ruler Shaykh Hamad b. Khalifa, with Qaradawi figuring prominently on al-Jazira and on the Islamonline web portal, also based in Qatar, and preaching in his mosque in Doha.

Yet Qaradawi is no mere court cleric. He is also a scholar. Already before his arrival in Qatar, he had published a book, *The Lawful and the Unlawful in Islam* (1960), which had sought, against stricter views of Islamic law, to enlarge the scope of the "permissible," and it has remained something of a best seller among competing Islamic primers.⁹⁴ Over the next fifty years, he would publish more than a hundred books. Among these are substantial works on zakat, collections of fatwas, and writings on various facets of law; the aforementioned series of books on the teachings of Hasan al-Banna; works on religious belief (*ʿaqida*), historiography, politics, an autobiography; and in the aftermath of 9/11, a major work on jihad, which is a simultaneous critique of U.S. policy and of radical Islamism. Although it is inconceivable that Qaradawi would have had a successful career without being able to live under royal patronage while his native Egypt was under the successive authoritarian rule of Nasser, Anwar Sadat and Hosni Mubarak, or for that matter, without a global prominence made possible only in an age of satellite television and the Internet, it is equally the case that his numerous publications are a crucial basis of the prominence and authority he had come to enjoy in the early twenty-first century. By 2010–11, he had enough stature to take strong positions in support of the popular movements sweeping the Middle East. He publicly praised the Tunisian fruit vendor whose self-immolation in protest against mistreatment by government officials became the symbolic trigger of anti-authoritarian protests, first in Tunisia and then elsewhere in the Arab world.⁹⁵ When anti-Mubarak protests began in Cairo in early January 2011, Qaradawi was among their most vocal supporters. And a week after the fall of the Mubarak regime, he briefly returned to Egypt to lead more than a million people in Friday prayer in Tahrir Square in downtown Cairo, the center of the prodemocracy protests.⁹⁶

⁹³ Qaradawi, *Ibn al-qarya*, 2: 361–2.

⁹⁴ Yusuf al-Qaradawi, *al-Halal wa'l-haram fi'l-Islam* (Cairo: ʿIsa al-Babi al-Halabi, 1960).

⁹⁵ Kareem Fahim, "Slap to a Man's Pride Set Off Tumult in Tunisia," *The New York Times*, January 22, 2011: A1; Sharif Allam, "al-Qaradawi: Nas'al Allah an yatajawaz an Bu Azizi," http://www.qaradawi.net/site/topics/printArticle.asp?cu_no=2&item_no=7842&version=1 (accessed January 22, 2011); Yusuf al-Qaradawi, "Tashih lazim," http://www.qaradawi.net/site/topics/printArticle.asp?cu_no=2&item_no=7850&version=1 (accessed January 22, 2011).

⁹⁶ David D. Kirkpatrick, "After Lengthy Exile, Sunni Cleric Adds Voice in Shaping of Egypt," *The New York Times*, February 19, 2011: A1.

A great deal has happened in the Middle East and the Muslim world over the course of Qaradawi's career, let alone over the hundred years between Rashid Rida's visit to India in 1912 and Qaradawi's return to his native Egypt in 2011. Some of these developments have been alluded to in the foregoing: the rise of the Muslim Brotherhood, the end of colonial rule in the Middle East, the reform of al-Azhar, the rise and decline of Arab nationalism, the emergence of oil-rich states, the advent of information technologies, the terrorist attacks of 9/11 and their aftermath, and the rise of populist movements at the beginning of the second decade of the twenty-first century. Although such developments can be glimpsed through Qaradawi's life and career, there are other trends that he more fully epitomizes. Among these, as we will observe in later chapters, is the effort to stake out a middle-of-the-road position between what are seen as various religious and political extremes – a stance that accords with but is not reducible to the Muslim Brotherhood's gradual turn away from political radicalism.⁹⁷ Long an advocate of the need for the `ulama to speak to people “in the language of the age,”⁹⁸ Qaradawi has sought as well to appeal simultaneously to varied audiences, including Islamists, `ulama, and Western-educated Muslims. This effort has come at the cost of some glaring contradictions in his discourses, but it has not been ineffectual in helping to build a larger audience than other religious scholars have enjoyed in the contemporary Sunni world. The desire to speak to multiple audiences is anchored, in turn, in a self-consciously critical attitude toward what he sees as the excesses and inadequacies of different Muslim camps: the Islamists are castigated for their political extremism but also for an uncritical submission to their leading lights and their lack of serious intellectual engagement; the liberal-modernists are criticized for being awed by Western cultural norms; and the `ulama are censured for being wedded to a scholarly tradition that they have failed to make relevant to contemporary needs. As will be observed, such critique is central to Qaradawi's discourses, to his claims to authority, and not least, to his appeal in the very circles that are often the objects of this critique.



YUSUF AL-QARADAWI AND MUHAMMAD RASHID RIDA WILL FEATURE PROMINENTLY as internal critics in the following chapters and so too will `Ubayd Allah Sindhi. However, we will also encounter a number of other Deobandis and people moving in related circles. Once again, some of these figures and their conflicted legacy allow us to view larger intellectual, religious, and political trends. Consider Anwarshah

⁹⁷ On the evolution of the Muslim Brotherhood, see Mona El-Ghobashy, “The Metamorphosis of the Egyptian Muslim Brothers,” *International Journal of Middle East Studies* 37 (2005): 373–95; Bruce K. Rutherford, *Egypt after Mubarak: Liberalism, Islam, and Democracy in the Arab World* (Princeton: Princeton University Press, 2008), 77–130.

⁹⁸ Yusuf al-Qaradawi, *al-Muslimun wa'l-`awlama* (Cairo: Dar al-tawzi` wa'l-nashr al-Islamiyya, 2000), 144. Cf. Walzer, *Company of Critics*, 234.

Kashmiri (d. 1933), a contemporary of `Ubayd Allah Sindhi and Rashid Rida. A distinguished scholar and professor of hadith at Deoband, Kashmiri was the person chosen by the madrasa to give a keynote address in honor of Rashid Rida when the latter had visited it in 1912. Rida and Kashmiri shared an important connection: Rida had been a student of Husayn al-Jisr, as noted earlier, and – in a time-honored tradition characterizing the person-to-person transmission of religious learning – al-Jisr “authorized” Kashmiri, while both were in Medina in 1905, to teach and further transmit the canonical hadith collection of al-Bukhari.⁹⁹ This shared link did not make for a pleasant encounter between Rida and Kashmiri, but that is a story we will come to later (see [Chapter 3](#)). Kashmiri’s commentary on al-Bukhari would later be posthumously published from Egypt, a project overseen by two of his students who had gone there specifically for this purpose and, in part through it, to help better introduce Deoband in the Arab world. Like his fellow Deobandi `ulama, Kashmiri was a devoted adherent of the Hanafi school of law. Yet he was considerably more open to possibilities of rethinking legal norms than most of his Deobandi colleagues, a fact that had led the influential modernist thinker Muhammad Iqbal (d. 1938) of Lahore to invite him to collaborate on a project aimed at the codification of Islamic law ([Chapter 3](#)).

Iqbal’s invitation had come at a time when Kashmiri was at loggerheads with the administration of the Deoband madrasa over some student demands. The school administration had taken disciplinary action against a number of students; for his part, Kashmiri had endorsed the demands of these students. The issues apparently had to do with mundane administrative matters rather than any scholarly disagreements; however, the fact that Kashmiri – the school’s “head professor” (*sadr mudarris*) – had taken a public stance in favor of the students is nonetheless significant.¹⁰⁰ If nothing else, it reflected a willingness to challenge established authority, and this is well-reflected in his thought as well. In the end, Kashmiri, together with a number of his colleagues, resigned from the madrasa, left Deoband, and moved to a madrasa in Gujarat in western India.

A number of Kashmiri’s students also became prominent scholars in their own right. One of these was Manazir Ahsan Gilani (d. 1956), who was studying hadith with him around the time of Rashid Rida’s visit to Deoband. Gilani was a rather unusual figure in that he had already completed a substantial education in the

⁹⁹ See “Tarjamat imam al-`asr . . .” in Muhammad Anwarshah al-Kashmiri, *Fayd al-bari sharh Sahih al-Bukhari*, compiled by Muhammad Badr-i `Alam Mirathi, ed. Ahmad `Inaya, 8 vols. (Beirut: Dar ihya al-turath al-`Arabi, 2005), 1: 28–9. On Kashmiri, see also Muhammad Yusuf Banuri, *Nafth al-`anbar fi hayat imam al-`asr al-shaykh Anwar* (Deoband: Bayt al-hikmat, n.d.); Sayyid Anzar Shah Mas`udi, *Naqsh-i dawam* (Deoband: Shah Book Depot, n.d.); `Abd al-Rahman Kondu, *al-Anwar: Shaykh al-hadith hadrat `allama Muhammad Anwarshah Kashmiri ki sawanih hayat awr kamalat wa tajalliyyat* (Delhi: Nadwat al-musannifin, 1978).

¹⁰⁰ On this murky conflict, which escalated over the course of several years between 1925 and 1928, see Sayyid Mahbub Ridwi, *Ta`rikh-i Dar al-`Ulum Deoband*, 2 vols. (Deoband: Idara-i ihtimam-i Dar al-`Ulum Deoband, 1977–8), 1: 269–74.

Islamic rationalist sciences prior to his arrival at Deoband; and unlike many others, he mostly taught not at a Deobandi madrasa but in the theology faculty of Osmania University in Hyderabad, Deccan (now the capital of India's Andhra Pradesh state).¹⁰¹ This university – chartered by the ruler of Hyderabad, a princely state recognized as semi-autonomous by the British – sought to provide Muslims with both a modern and an Islamic education. As at Aligarh, the emphasis was much more on the former sort of education, with the difference, however, that the medium of instruction was Urdu rather than English. Yet even as he taught at this institution, Gilani remained associated with Deoband, and for nearly two decades he was a member of the madrasa's consultative assembly.¹⁰² In the course of a prolific career, he wrote a number of significant works on law, theology, and history, including what must be reckoned as the official biography of Muhammad Qasim Nanotawi, one of the founders of the Deoband madrasa. Gilani is also the author of a major history of education in Muslim South Asia. We will examine that work in a later chapter as an illustration of his reformist thought.

At the end of British rule and the partition of the Indian subcontinent in 1947, the `ulama living in parts of what would become postcolonial India had to decide – like countless other Muslims – whether or not to emigrate to the new Muslim homeland. The Deobandis were split down the middle on this question. Stalwarts, like Husayn Ahmad Madani – Kashmiri's successor as the head professor of Deoband (1927–57) – who, some years earlier, had been imprisoned with Mahmud Hasan on the island of Malta, resolutely stood by the Indian National Congress to endorse a united Indian nation irrespective of religious difference. Others, including the madrasa's chief mufti Muhammad Shafi` (d. 1976), supported the demand for Pakistan and eventually moved to the new Muslim homeland. Muslims of Pakistan and India would henceforth live in quite different political frameworks: a state continuously debating the elusive question of Islam in public life versus one committed to secular norms but with an overwhelming Hindu majority. Gilani was among those who decided to continue living in India. Among other things, this expressed the conviction of such `ulama that Islam did not depend on political authority to thrive, a conclusion their forbears had already reached upon the establishment of British colonial rule in India.

Although Gilani was not active in Indian politics, another student of Kashmiri did enjoy considerable political prominence. This scholar, Hifz al-Rahman Seoharwi (d. 1962), would serve in post-independence India as the secretary-general of the premier Deobandi religiopolitical organization the Jam`iyyat al-`Ulama-i Hind, as well as a member of the Indian parliament. Seoharwi is the author of a major work on issues of socioeconomic justice, and it is his ideas in this regard and his critique of the Islamic tradition and of fellow `ulama from

¹⁰¹ On Gilani's life, see Zafir al-din Miftahi, *Hayat-i mawlana Gilani* (Benares: Mawlana Yusuf Academy, 1989).

¹⁰² *Ibid.*, 155–7. At the very beginning of his career, he had also taught briefly at Deoband: *ibid.*, 134–46.

this perspective rather than his politics that will occupy us later in this book (Chapter 7).

Another distinguished student of Kashmiri, Muhammad Yusuf Banuri (d. 1977), was from the northwest frontier region bordering Afghanistan. Banuri is the author of a major hadith commentary in Arabic as well as of a biography of Kashmiri.¹⁰³ He is perhaps best known in Pakistan as the founder of what grew into a major Deobandi madrasa in Karachi. Although Kashmiri has figured prominently in Banuri's intellectual genealogy and in affirmations of his madrasa's credentials, the scholars associated with the madrasa – the *Jami`at al-'Ulum al-Islamiyya* – represent a very different path from that adopted by a Manazir Ahsan Gilani or a Hifz al-Rahman Seoharwi. Indeed, it is remarkable how many of the major crises in the history of Pakistan are inscribed in the career of this madrasa. For instance, Banuri and others associated with it were at the forefront of the agitation seeking the excommunication of the Ahmadis – a group deemed heretical by other Muslims for their belief that the community's founder, Mirza Ghulam Ahmad (d. 1908), was either a prophet or a messiah. In the 1960s, his madrasa's journal was also the mouthpiece of `ulama opposition to the noted modernist Fazlur Rahman (d. 1988), who was eventually forced to leave the country. From the 1980s onward, the madrasa played an important role in sectarian Shi'i-Sunni conflict in Pakistan, in galvanizing support for the anti-Soviet Afghan struggle, and not least, in backing the Taliban, both when the regime was in power and after its fall.¹⁰⁴

I mention Banuri here not as an example of internal criticism, of course, but rather to evoke some of the stringent positions that inhabit the religious and political sphere in which those recognizable as internal critics have had to position themselves. I also mention him to highlight the ambiguities in the legacy of particular figures, in this case Banuri's teacher, Anwarshah Kashmiri. Kashmiri, it is worth noting, was not only a distinguished scholar of hadith but also an indefatigable polemicist against the Ahmadis. For all his appeal for modernists like Iqbal, he was resolute in insisting that anyone deemed to deny the "essentials (or necessities) of religion" could not be considered a Muslim.¹⁰⁵ This position could be a slippery slope, with its casualties not limited to the Ahmadis but potentially extendable to the liberal-modernists as well. Indeed, at one point, Kashmiri is said to have directed a similar charge at his fellow Deobandi `Ubayd Allah Sindhi.¹⁰⁶

¹⁰³ Muhammad Yusuf Banuri, *Ma`arif al-sunan sharh Jami` al-Tirmidhi*, 6 vols. (Karachi: H. M. Sa'id Company, 1988–9). For the biography of Kashmiri, see n. 99.

¹⁰⁴ On this madrasa, see Muhammad Qasim Zaman, "Tradition and Authority in Deobandi Madrasas of South Asia," in Robert W. Hefner and Muhammad Qasim Zaman, eds., *Schooling Islam: The Culture and Politics of Modern Muslim Education* (Princeton: Princeton University Press, 2007), 70–4.

¹⁰⁵ For his treatise on this subject, see Muhammad Anwarshah Kashmiri, *Ikfar al-mulhidin fi daruriyyat al-din*, 2nd ed. (Dabhel: al-Majlis al-'ilmi, 1988). The book was written in 1924 (*ibid.*, 132).

¹⁰⁶ Undated letter from `Ubayd Allah Sindhi to Ahmad `Ali Lahori in Abu Salman Shahjahanpuri, ed., *Makatib-i Mawlana `Ubayd Allah Sindhi* (Karachi: Mawlana `Ubayd Allah Sindhi Academy, 1997), 40; Laghari, *Mawlana `Ubayd Allah Sindhi*, 77.

There is, then, a facet of Kashmiri's legacy that Banuri could legitimately claim to be developing, just as Banuri himself was not only a polemicist and a rabble-rouser but also a serious scholar. Yet, in view of his nuanced juridical views (see [Chapter 3](#)) and the diverse circle of his students, Kashmiri's legacy can scarcely be reduced to a single dimension. His students include Sa'id Ahmad Akbarabadi (d. 1985), a one-time associate of the modernist Iqbal and later the dean of the faculty of Sunni theology at Aligarh University, who had gone so far as to write a book in defense of `Ubayd Allah Sindhi.¹⁰⁷ Much to the discomfort of many people, Akbarabadi had shown in this book that many of Sindhi's key ideas were in far greater accord with those of the revered Wali Allah than Sindhi's critics wanted to acknowledge. Significantly, even the insistence on the "essentials of religion" could be taken not to exclude from the community people who were thought lacking in their commitment to them but rather to argue that it was possible, and desirable, to compromise with others on the "non-essentials." Gandhi, for one, had spoken in this vein,¹⁰⁸ and it is conceivable that Muslim modernists would have understood the idea in similar terms. All this is, once again, to underscore the polyvalence of the world inhabited by our internal critics, a fact that will be seen to both enable and constrain their discourses.

Sindhi, Kashmiri, and some of the latter's students are not the only Deobandis inhabiting the following chapters. Among more recent Deobandis, I will refer on several occasions to those associated with the Islamic Fiqh Academy of India. Founded in 1989 and modeled, in part, on juridical councils elsewhere (notably the *fiqh* councils of the pan-Islamic, Saudi-sponsored Organization of Islamic Conference¹⁰⁹ and the Muslim World League, which in turn was established to combat the challenge of Nasserism in the 1960s), the Indian Fiqh Academy seeks to provide a legal forum to scholars from different religious orientations, although it has continued to be dominated by Deobandis. Central to the professed goals of the Fiqh Academy is the effort to find solutions to problems arising as a result of changing circumstances in different walks of life and to address them in "a modern and contemporary idiom" in light of what are taken to be the overarching "purposes of the shari'a."¹¹⁰ A related and equally central concern is to link scholars and scholarly institutions in and outside India to one another and to make their views and writings widely available. In this regard, the Fiqh Academy has interacted closely with scholars of a Salafi orientation in the Arab world and beyond, including

¹⁰⁷ Sa'id Ahmad Akbarabadi, *Mawlana `Ubayd Allah Sindhi awr unke naqid* (Deoband: Maktaba-i Rahmaniyya, 1972 [hereafter *Naqid*]). And see [Chapter 2](#).

¹⁰⁸ See Gyanendra Pandey, *The Construction of Communalism in Colonial North India* (Delhi: Oxford University Press, 1990), 236–7.

¹⁰⁹ The official name of this organization was changed in June 2011 to the Organization of Islamic Cooperation (*Dawn*, June 29, 2011: "OIC Changes Name"). For ease of reference, I will continue to refer to its better-known earlier name.

¹¹⁰ Islamic Fiqh Academy, India, *Majma' al-fiqh al-Islami al-Hind: Ta'rifuhu, ahdafuhu, anshitatuhu* (Delhi: Majma' al-fiqh al-Islami bi'l-Hind, 2007), 5.

Yusuf al-Qaradawi and some of his associates. Among other things, this interaction provides us a useful opportunity to view the reformist Salafis and the Deobandis in a shared framework.

The work of the Fiqh Academy should also be seen in the context of the increasingly chronic economic and political marginalization of the Muslims of India in the decades following Indian independence and of new threats to Muslim well-being with the rise of Hindu nationalism since the 1980s. Sustained contact with scholars elsewhere symbolically remedies – at least in view of the scholars themselves – some of this marginalization. Ironically, it can also have the effect of heightening the sense of the “foreignness” of Islam in India. What recommends the Fiqh Academy to our attention, however, is neither just the fact that it represents a new expression of Deobandi institutional initiative nor its self-conscious cultivation of intellectual ties with scholars elsewhere. It is rather its effort, in distinguishing itself from other Deobandi-dominated institutions, to cultivate a distinctive form of self-critical reform. Unlike many other Deobandis, the *ʿ*ulama of the Fiqh Academy are not content only to insist on anchoring belief and practice in the Islamic foundational texts, to adhere to the prescriptions of the Hanafi school of law, and to urge fellow believers that they turn away from the local customary norms that true Islam frowns upon.¹¹¹ They have sought rather to cultivate a reformist stance anchored in the conviction that the grave challenges Muslims face in India today require greater flexibility in reinterpreting legal norms than has usually been allowed by scholars of a more traditionalist bent.

Besides postcolonial Indian Deobandis, we will also meet Deobandi scholars from Pakistan, to be introduced in subsequent chapters. Their discourses, too, will help us chart some of the paths along which contemporary debates have moved, on socioeconomic justice in conditions of grinding poverty, on violence and terrorism in the wake of 9/11, and on other subjects.

RELIGIOUS AUTHORITY AND INTERNAL CRITICISM

That religious authority and internal criticism are my key concerns in this book should be clear from the foregoing. It seems necessary, however, to briefly elucidate some of their connotations before proceeding further. At its simplest, I take religious authority to mean the aspiration, effort, and ability to shape people’s belief and practice on recognizably “religious” grounds.¹¹² In the context of modern

¹¹¹ On this sort of reformism, for which Deoband is best known, see Barbara D. Metcalf, *Islamic Revival in British India: Deoband 1860–1900* (Princeton: Princeton University Press, 1982).

¹¹² That is, on grounds that they and their putative audiences would consider “religious.” What religious means varies immensely, of course, but a discussion of religious authority does not require a shared definition of it. Indeed, as anthropologist Talal Asad has argued, “there cannot be a universal definition of religion, not only because its constituent elements and relationships are historically specific, but because that definition is itself the historical product of discursive processes.” Talal

Islam, it is useful to think of issues relating to religious authority in terms of the following three considerations.

First, there is a significant disjunction between how authority might be imagined and how it works in practice. Inasmuch as authority is needed to deal with what legal philosopher John Finnis calls “coordination problems” – guiding conflicting preferences toward particular, coherent ends – ideally, it should be able to have people take particular paths to the exclusion of others, *despite* their own reasons for acting differently.¹¹³ In a similar vein, as Joseph Raz, another influential legal philosopher, puts it, “Those subject to . . . authority are not allowed to second-guess the wisdom or advisability of the authority’s directives.”¹¹⁴ This way of thinking about authority would not have been foreign to medieval Muslim jurists and mystics. Adherents of a school of law (*madhhab*), as well as lesser scholars belonging to it, were expected, for instance, to conform to the school’s established norms without asking questions. This was the idea of *taqlid*, which the great medieval jurist al-Ghazali (d. 1111) defined simply as “accepting a statement without [demanding] proof.”¹¹⁵ The authority of the Sufi master was likewise meant to remain unquestioned. As Ghazali, who was also a distinguished Sufi, had put it, “Let him [i.e., the disciple] know that the advantage he gains from the error of his sheikh, if he should err, is greater than the advantage he gains from his own rightness, if he should be right.”¹¹⁶

In practice, however, authority is not only questioned in many quarters of the target audience; it is often *recognized* as being questioned. The Qur’an spends a good deal of effort affirming the authority of the Prophet,¹¹⁷ and it is not just the polytheists or those who would go down in history as the “hypocrites” – lukewarm and insincere believers – who had questions about the Prophet’s authority but sometimes also his closest companions.¹¹⁸ It took generations of debate among early scholars of Islamic law to decide how to think of the Prophet’s authority

Asad, *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam* (Baltimore: The Johns Hopkins University Press, 1993), 29.

¹¹³ John Finnis, *Natural Law and Natural Rights* (Oxford: Clarendon Press, 1982), 231–59, esp. 231–2, 245, 248.

¹¹⁴ Joseph Raz, *Between Authority and Interpretation: On the Theory of Law and Practical Reason* (Oxford: Oxford University Press, 2009), 141.

¹¹⁵ Abu Hamid al-Ghazali, *al-Mustasfa min `ilm al-usul*, 2 vols. (Bulaq: al-Matba`a al-amiriyya, 1904), 2: 387. Cf. al-Amidi, *al-Ihkam fi usul al-ahkam*, ed. `Abd al-Mun`im Ibrahim, 4 vols. (Riyadh: Maktabat Nizar Mustafa al-Baz, 2000), 4: 970, defining *taqlid* as “acting according to someone else’s statement and in the absence of a binding proof.” For a slightly different translation of Amidi’s statement, see Bernard Weiss, “The Madhhab in Islamic Legal Theory,” in Peri Bearman et al., *The Islamic School of Law: Evolution, Devolution, and Progress* (Cambridge: Islamic Legal Studies Program, 2005), 3.

¹¹⁶ Quoted in Annemarie Schimmel, *Mystical Dimensions of Islam* (Chapel Hill: University of North Carolina Press, 1975), 103–4.

¹¹⁷ E.g., Q 3.32, 132; Q 4.59–70, 80, 83; Q 14.9–15; Q 33.21, 36, 66–8.

¹¹⁸ On the “hypocrites” (*al-munafiqun*), see *Encyclopedia of the Qur’an*, ed. Jane D. McAuliffe (Leiden: Brill, 2001–7), s.v. “Hypocrites and Hypocrisy” (by C. P. Adang). For an example of the Prophet’s

in relation to that of the Qur'an, which Muslims see as the word of God rather than that of the Prophet (usually characterized as hadith).¹¹⁹ It likewise took much time and work for a properly authoritative image of the putative founders of the medieval schools of law to crystallize.¹²⁰ Even after that, however, the authority, say, of Abu Hanifa, the eighth-century Iraqi scholar whose name is borne by the Hanafi school of Sunni law, does not necessarily "preempt" that of his leading disciples or even of later scholars.¹²¹ To take another example, it is possible to this day even for nondescript people to seek a juristic opinion, a *fatwa*, from one mufti and then turn to another for an opinion on the same question. In real life, people would often have enough trust in the abilities of a mufti not to want to have recourse to multiple jurisconsults, just as the parties to a dispute on which the mufti offers his opinion often accept the opinion even when it does not conform to their particular interests.¹²² Yet the fact remains that the mufti does not enjoy what Raz would call "preemptive" authority.¹²³ And he can help "coordinate" people's conflicting views and interests in light of his reading of Islamic law without such authority.

Second, and closely related to the foregoing, although particular individuals, texts, ideas, and institutions may, and often do, put forth claims to authority in the abstract, the meaning and scope of any such claims are necessarily tied to the specificities of their context. Even the most authoritative of a religious tradition's texts not only constrain but are constrained by how people will understand them in their particular contexts. As `Ali b. Abi Talib (r. 656–61), the fourth caliph according to the Sunnis and the first imam according to the Shi'a, had observed in arguing with some of his erstwhile followers who wanted a dispute to be arbitrated by scripture, "this Qur'an is only a writing recorded between two covers. It does not speak, but rather people speak through it."¹²⁴ Not all commentators, or their

celebrated companion `Umar ibn al-Khattab questioning his decision, see Ibn Hisham, *al-Sira al-nabawiyya*, ed. Mustafa al-Saqqa et al., 4 vols. (Cairo: Matba'at Mustafa al-Babi al-Halabi, 1936), 3: 331.

¹¹⁹ An important milestone in this debate is represented by the work of Muhammad b. Idris al-Shafi'i (d. 820), the eponymous founder of the Shafi'i school of law. See, in particular, his *Risala*, ed. Ahmad Muhammad Shakir (Cairo: Dar al-turath, 1979).

¹²⁰ See Wael B. Hallaq, *Authority, Continuity and Change in Islamic Law* (Cambridge: Cambridge University Press, 2001).

¹²¹ See Eyyup Said Kaya, "Continuity and Change in Islamic Law: The Concept of Madhhab and the Dimensions of Legal Disagreement in Hanafi Scholarship of the Tenth Century," in Bearman et al., ed., *The Islamic School of Law*, 26–40.

¹²² Hussein Ali Agrama, "Ethics, Tradition, Authority: Toward an Anthropology of the Fatwa," *American Ethnologist* 37 (2010): 2–18, esp. 4.

¹²³ The preemptive quality of authority is one of the key features of Raz's "service conception of authority," so called because serving those subject to it is the condition of its legitimacy. Raz, *Between Authority and Interpretation*, 134–42; idem, "Authority and Justification," in Joseph Raz, ed., *Authority* (New York: New York University Press, 1990), 115–41.

¹²⁴ Muhammad ibn Jarir al-Tabari, *Ta'rikh al-rusul wa'l-muluk*, ed. M. J. de Goeje et al. (Leiden: E. J. Brill, 1879–1901), I.6: 3352; translation as in G. R. Hawting, "The Significance of the Slogan 'La

audiences, would acknowledge this, but that does not alter the fact that authority is constructed and understood in accordance with the exigencies of particular circumstances.

Taking a context-based approach to authority means that, among other things, it should be seen as a relational concept.¹²⁵ There are different reasons – including fear, respect, conviction, custom, and even the lack of alternatives – why one might come to recognize claims to authority,¹²⁶ which means that different people would stand in a rather different relation to such authority as they recognize. An institution, person, or idea may therefore be more authoritative for some people, or in some respects, and less so for others. It may carry greater authority at one time or place than it does at another. And far from being an abstract notion, it is only in relation to others – claimants as well as constituencies – that one can be said to *have* authority.¹²⁷

In their different ways, many among the `ulama have long recognized the contextual and relational aspects of authority. For instance, a juridical opinion issued by a mufti is not necessarily meant for “everyone” but rather for people who find themselves in a particular circumstance at a particular time. Exegetes and jurists have argued, to take another example, that some earlier passages of the Qur’an – which is believed to have been revealed to Muhammad over the course of more than two decades – were abrogated by some later ones as circumstances of the Prophet’s nascent community changed. Hifz al-Rahman Seoharwi, the aforementioned mid-twentieth-century Indian scholar, went further and argued that the repertoire of abrogated passages should not be seen as fixed in all their implications: evolving circumstances should be allowed to resuscitate what was once deemed a dead letter and vice versa.¹²⁸ `Ubayd Allah Sindhi had taken a rather

hukma illa lillah’ and the References to the Hudud in the Traditions about the Fitna and the Murder of `Uthman,” *Bulletin of the School of Oriental and African Studies* 41 (1978): 462 (with minor modification).

¹²⁵ Gudrun Krämer and Sabine Schmidtke, “Introduction,” in Gudrun Krämer and Sabine Schmidtke, ed., *Speaking for Islam: Religious Authorities in Muslim Societies* (Leiden: Brill, 2006), 2. Also see the references in n. 127.

¹²⁶ For some of these motivations, see Finnis, *Natural Law*, 247.

¹²⁷ Cf. Raz, *Authority and Interpretation*, 154–9, esp. 155. For a reminder that a person may carry authority in some respects but not in others, see Jeffrey Stout, *Blessed are the Organized: Grassroots Democracy in America* (Princeton: Princeton University Press, 2010), 100–01, following Saul D. Alinsky, *Reveille for Radicals* (New York: Vintage Books, 1969), 72–3. For an illustration of authority as relational in a contemporary Muslim context, see Faiza Mushtaq, “New Claimants to Religious Authority: A Movement for Women’s Islamic Education, Moral Reform and Innovative Traditionalism,” PhD dissertation, Department of Sociology, Northwestern University, 2010, chapter 4.

¹²⁸ Ghulam Husayn Bhagalpuri, “Aik ahamm tafsiri mas’ale par mujahid-i millat . . . ka aik giranqadar maktub,” *al-Jam’iyyat: Mujahid-i millat number* (Delhi: N.p., 1963): 349–50. The article reproduces a 1942 letter from Seoharwi to Bhagalpuri on the question of abrogation. A notable earlier exponent of a similar view was the fourteenth-century Egyptian scholar Zarkashi (d. 1392). See Badr al-din Muhammad al-Zarkashi, *al-Burhan fi `ulum al-Qur’an*, ed. Muhammad Abu’l-Fadl Ibrahim, 4 vols. (Cairo: Dar ihya al-kutub al-`Arabiyya, 1957–9), 2: 42–3.

similar view.¹²⁹ The relational dimension of authority also comes across clearly in the observation of Shibli Nu`mani, the scholar at whose invitation Rashid Rida had visited India, that the rulings of the shari`a that were commonly deemed the most authoritative were those that had the force of customary norms behind them. Needless to say, Shibli was arguing not in favor of customary practice but rather for changes in the `ulama's worldview on grounds that it was "mere" custom rather than sacred law that they were inadvertently defending.¹³⁰

Third, religious authority is a matter of unrelenting contestation. Claims to it involve contesting other claims to it, dislodging or otherwise unsettling rivals, showing the inadequacy of existing views, and defending one's own.¹³¹ Contestation can range from the scurrilous to the subtle, but it is hard to imagine authority without challenges to it. In a study of conceptions of honor, religion, and politics on the Indo-Afghan frontier in the late nineteenth century, anthropologist David Edwards observes that "a man of honor is judged by the rivals he keeps."¹³² Much the same is true of claims to religious, intellectual, and other forms of authority. The same, indeed, would be true of any goods worth fighting over. Yet to recognize this latter point is not to render contestation itself a banal fact of life. So far as claims to authority are concerned, the significance of contestation lies rather in reminding us that authority is not a stable endowment but one that is always exposed to implicit or explicit challenge and that it waxes and wanes in response to the pressures bearing upon it.

Conversely, in speaking of contestation, it is not necessary to think of elaborate formal debates among intellectual heavyweights trying to best each other in pursuit of public acclamation or royal patronage. These too have survived the medieval courtly cultures for whose entertainment they were sometimes organized, however. One memorable instance was seen in 1896 near the Indo-Afghan frontier, when two Sufi scholars, both with strong claims to religious authority in the region, debated a matter regarding the proper performance of ritual prayer in the presence of some 8,000 people.¹³³ But actual or imagined debates in the pages of a newspaper can equally offer important opportunities to assert authority and to score points. We will encounter several examples of this and of other sites for contesting authority in the following chapters, but one is worth mentioning here. In a 1928 letter to

¹²⁹ Akbarabadi, *Naqid*, 212–13; Zafir al-din Miftahi, "Muqaddima," in `Abd al-Samad Rahmani, *Qur'an-i muhkam* (Deoband: Majlis-i ma'arif al-Qur'an, 1966), 5–8.

¹³⁰ Muhammad Shibli Nu`mani, "Wo ghalati ziyada khatarnak hai jo insan ko apni nisbat ap ho," in Husayn, ed., *Baqiyyat-i Shibli*, 26–7.

¹³¹ Pace Arendt, to whom authority presupposes any lack of argumentation: "Where arguments are used, authority is left in abeyance." Hannah Arendt, "What was Authority?" in Carl J. Friedrich, ed., *Authority* (Westport: Greenwood Press, 1981), 82.

¹³² David B. Edwards, *Heroes of the Age: Moral Faultlines on the Afghan Frontier* (Berkeley: University of California Press, 1996), 157.

¹³³ *Ibid.*, 156–68. Also see [Chapter 8](#), n. 133.

Shakib Arslan, Rashid Rida had gently reprimanded him for discussing shari`a-related controversies in a manner that had exposed him – Arslan – to the `ulama’s criticism:

I wish you had sent this sort of a topic to me so I could publish it in *al-Manar*. . . I would have presented it in such a way that whoever refuted it would himself come across looking ignorant. Indeed, knowing that it had been published in *al-Manar*, these `ulama would not dare refute it even if they saw errors in it.¹³⁴

Leaving aside other things to which this statement draws attention – from Rida’s view of himself to what he thought of fellow `ulama to the power of the journalist’s pen – there is an unmistakable recognition here of the contestation that undergirds claims to authority and, indeed, of how present authority is the fruit of past contestations and of those yet to come.



A GOOD DEAL OF WHAT I HAVE OUTLINED HERE ABOUT RELIGIOUS AUTHORITY applies as well to internal criticism. Contestation, to take this point first, is as integral to the life of a tradition as it is to claims to authority. As the moral philosopher Alasdair MacIntyre has put it:

A tradition is an argument extended through time in which certain fundamental agreements are defined and redefined in terms of two kinds of conflict: those with critics and enemies external to the tradition who reject all or at least key parts of those fundamental agreements, and those internal, interpretative debates through which the meaning and rationale of the fundamental agreements come to be expressed and by whose progress a tradition is constituted. Such internal debates may on occasion destroy what had been the basis of common fundamental agreement, so that either a tradition divides into two or more warring components, whose adherents are transformed into external critics of each other’s positions, or else the tradition loses all coherence and fails to survive. It can also happen that two traditions, hitherto independent and even antagonistic, can come to recognize certain possibilities of fundamental agreement and reconstitute themselves as a single, more complex debate.¹³⁵

Among those inhabiting a tradition, there are defenders of particular norms just as there are critics of different degrees of intensity. Stereotypes notwithstanding, defenders of a tradition are not “blind imitators” of past authorities; and although my focus in this book is on the critics rather than the defenders of the tradition, the latter can be as intellectually sophisticated as are the former. Nor are we to suppose that a tradition’s internal critics are critical of all aspects of that tradition: they would not be *internal* critics if that were the case, for their goal typically is to defend certain aspects of that tradition by critiquing others. Understandably,

¹³⁴ Rida to Arslan, January 26, 1928, in Arslan, *al-Sayyid Rashid Rida*, 515.

¹³⁵ Alasdair MacIntyre, *Whose Justice? Which Rationality?* (Notre Dame: University of Notre Dame Press, 1988), 12.

therefore, the boundaries between internal critics and defenders of a tradition, and even between internal and external critics, are not always clearly discernible. To recognize this fact is not to say that there are not important distinctions to be made, but only that the distinctions in question can themselves be a matter of contestation. They are also subject to considerable fluidity.

Insomuch as internal critics seek to unsettle and refashion particular ideas, they would presumably like nothing better than the preemptive or exclusionary authority with which to do so. For their part, those pitted against them in defense of the ideas in question also seek the sort of authority that would preempt any challenge or nip it in the bud. However good contestation may be for the health and vigor of a tradition, few people would wish to confront serious challenges of their own accord. In practice, of course, they must do so, and they do this not with preemptive or exclusionary authority but with one that competes, even as it coexists, with rival claims.

Very much like religious authority, internal criticism, too, is necessarily defined by the contexts in which it is articulated. Some implications of this seemingly obvious point are worth spelling out. Firstly, it is easy to miss the significance of a particular critique, or of the challenge it poses to established norms and approaches, because it does not conform to “our” expectations of how radical or thoroughgoing it ought to be.¹³⁶ Yet even as a particular challenge is shaped by a variety of internal and external factors, it is only by understanding what it means to, and for, a tradition’s adherents at any particular time and place that we can hope to appreciate its significance. Secondly, internal criticism, no less than religious authority, is relational. Implicitly or explicitly, it seeks to reconfigure how different facets of the tradition relate to one another. And like their rivals, a tradition’s internal critics stand in a close self-described relation to earlier authorities, although these are not always the authorities that have carried the greatest weight in that tradition. Finally, what makes criticism *internal* is itself a relational matter. Compared, say, to non-Muslim critics of particular facets of Islam, liberal-modernist Muslims and Islamists would clearly have to be reckoned as internal critics. To the extent that these latter do not extensively engage with the historically articulated Islamic scholarly tradition in critiquing that tradition, however, they are not internal critics in the sense that the dramatis personae of this book and many others among the ‘ulama are.¹³⁷

¹³⁶ Cf. Gaonkar and Taylor, “Block Thinking,” 455.

¹³⁷ The question of who might be a more “authentic” representative of Islam is one that falls outside the purview of this book, although the contestation on such questions is, of course, very much a part of our concerns here. Nor, for our purposes, is it necessary to decide whether internal criticism is “better” than other kinds. In some instances, it may well be more efficacious in appealing to people committed to the tradition in question. Yet efficacy is not always easy to determine, and in any case, it does not by itself allow us to judge the relative merit of particular arguments. My observations here are informed by Brian Barry, “Social Criticism and Political Philosophy,” *Philosophy and Public Affairs* 19 (1990): 367.

THE SCOPE AND STRUCTURE OF THIS BOOK

In the chapters that follow, I will examine the thought of the figures mentioned earlier, as well as several others, in terms of a number of overarching and overlapping themes. The first part of the book is concerned with the content, rhetoric, and ambiguities of internal criticism with a focus on three broad-ranging debates: on consensus, a key institution in Islamic law; *ijtihad*, a term that can mean wildly different things to different people but that may broadly be understood as the effort to arrive at legal rulings on matters not explicitly regulated by the Islamic foundational texts; and on the common good. All three have had their place in the Islamic legal tradition, although my discussion will not be limited only to the specific legal dimensions in which the jurists have typically viewed them. The second part will provide a number of case studies.

Consensus, the subject of the next chapter, has long remained a significant means of affirming and upholding legal and religious norms as well as the position of the `ulama. From their different perspectives, Muslim modernists and Islamists have often severely attacked the authority of consensus: to the modernists, it has prevented Muslims from adapting to changing needs, and to Islamists, much of what is sanctified as consensus has little to do with true Islam as embodied in its foundational texts. Although many `ulama have continued to defend the authority of consensus, some, as I show in this chapter, have ventured far and wide in trying to limit its scope and, conversely, to broaden the ranks of those who ought to count in the making of consensus. Much ambiguity characterizes the debates on consensus. As will be seen, however, they are a crucial part of the effort to rethink conceptions of the scholarly tradition and of the authority so intimately attached to it.

For all their tensions and contradictions, the reformist `ulama's discourses on consensus have served to create new openings and new spaces in contemporary Islamic thought. In some ways, the same is true of their evolving conceptions of *ijtihad*. Calls for *ijtihad* have been a staple of modernist writing since the late nineteenth century. And it is the insistence on the continuing right and, indeed, the obligation, to practice *ijtihad* that is among the distinguishing features of the Salafis. Deobandis, for their part, have often been suspicious of claims to *ijtihad*, arguing instead that the best that latter-day scholars can do is adhere closely (*taqlid*) to the agreed-upon doctrines and methods of the scholars of earlier centuries. Yet, over the course of the twentieth century, as I show in [Chapter 3](#), Deobandi scholars have become increasingly more open to possibilities of *ijtihad*. What accounts for this shift?

One obvious answer is, of course, that many among the `ulama have themselves come to recognize that particular problems can no longer be adequately addressed within the framework of *taqlid*. However, the reformists among the `ulama are also highly sensitive to the stigma that *taqlid* – often dubbed “blind imitation” by its

modernist and Salafi critics – carries in many Muslim circles. While *taqlid* has long been a means for the jurists to conserve the integrity of their scholarly tradition, I argue that the “language” of *ijtihad* now functions in a rather similar manner – that is, as an instrument through which not only to improve the image of the *ʿulama* but also to try holding modernist invocations of *ijtihad* at bay. As will be observed, the language of *ijtihad* has also come to undergird ambitious new efforts toward an institutional expression of the *ʿulama*’s authority. Emerging institutional forums for “collective *ijtihad*,” of which the Islamic Fiqh Academy of India is the most important instance in South Asia, help remedy the very fragmentation of authority the reformist *ʿulama* often freely acknowledge in other contexts. In South Asia, such institutional forums have also served to reduce some of the distance between reformist Salafi and more traditionalist positions.

Like *ijtihad*, a key idea in modern discourses on social and legal reform is *maslaha*, which I broadly render as the common good and which I examine in [Chapter 4](#). Muslim modernists have invoked this idea frequently as a justification for setting aside some established norms and as a move toward secular legislation. Many among the *ʿulama*, for their part, have resisted invocations of *maslaha* precisely because it threatens to undermine the coherence of the Islamic tradition in the name of mere expediency. Others, however, have embraced it with much enthusiasm. In the early twentieth century, Rashid Rida had been an ardent advocate of *maslaha*, and in the contemporary world, Qaradawi has been at the forefront of those who have written approvingly on this subject. Again, much ambiguity will be observed in the reformist *ʿulama*’s discourses here. Irrespective of particular tensions, however, I argue that the contestations on it, of which several examples will be reviewed, are themselves generative of new conceptions of the common good. Such a perspective allows us to look beyond the confines of the narrowly legal topic of *maslaha* to discover the *ʿulama*’s broader engagement with the common good; it also enables us to see that the *ʿulama*’s contestations on particular matters, for all their constraints, help reconfigure the very public sphere in which such issues are debated.

A number of case studies in the second part of this book will show, *inter alia*, how *ijtihad*, new (and old) understandings of consensus, and invocations of the common good are at work in debates on particular issues and how religious authority is imagined and contested in such instances. Discourses on religious education comprise the subject of [Chapter 5](#). Here I examine the views of those who have been highly critical of particular facets of the very education on which they rest a good deal of their claims to authority. More specifically, this chapter analyzes writings on the need to reduce the perceived distance between modern and traditional Islamic education – or between secular and religious learning – and it asks if there is more to the persistence of these discourses than the putative intransigence of the more conservative *ʿulama*. Although the seemingly interminable debate on the reform of religious education is frequently articulated in terms of

bland dichotomies between traditional and modern learning, it will be seen that such binaries conceal within themselves a good deal of contestation on conceptions of Islam, politics, authority, the common good, and of course, education. In line with my argument earlier in the book, I suggest that such contestation should be viewed not merely as a lamentable product of incommensurable positions but as the very ground on which new understandings of Islam have tended to emerge.

Chapter 6 examines some facets of the wide-ranging debates among religious scholars on legal and customary norms as they relate to women. Touching upon discourses on “honor crimes,” on whether a woman can be coerced into a marriage, the right of an adult woman to marry of her own accord and without the permission of her legal guardian, and whether a non-Muslim woman who converts to Islam while her non-Muslim husband fails to do so can stay married to him, this chapter seeks to shed light both on how the `ulama’s understanding of their religious and legal tradition constrains their discourses and what sort of agency they have had in navigating through this tradition. The debates we briefly hear about in this chapter can shed much light on the differences that separate the religious scholars from one another on particular matters. They also reveal that the distances that separate our internal critics from more conservative `ulama are far from uniform and that there continues to be considerable tension *within* the ranks of the former between the desire to make substantive change in particular laws and to justify older norms in a new idiom.

In Chapter 7, I turn to the `ulama’s discourses on socioeconomic justice. Here I explore the fairly extensive but hitherto little examined engagement with this issue in the work of some Deobandi figures as well as in Qaradawi’s early writings. I also examine how these scholars have sought to mobilize the medieval and early modern scholarly tradition in support of their arguments. However, my concern is equally to bring out the deep reservations many Deobandi scholars in particular have had toward any sustained interest in this subject. How we are to account for such misgivings in societies marked by deep-rooted poverty and what they suggest not only about contestations within the ranks of the `ulama but also, once again, about the constraints on their social thought are among the questions I explore in this chapter.

The final substantive chapter of this book deals with the `ulama’s discourses on violence and specifically on matters related to terrorism, including the phenomenon of suicide bombing. I offer a detailed analysis here of the *Jurisprudence of Jihad*, a large book that Qaradawi published in 2009. This work represents the most ambitious effort to date to rethink facets of the Islamic legal tradition on jihad in the aftermath of 9/11, but it also reveals much about the ambiguities of contemporary Muslim engagement with the scholarly tradition and about issues of religious authority. As such, it can shed much light not only on the subject of this chapter but also on some of my concerns in the volume as a whole. This chapter

also examines Deobandi discourses on violence prior to 9/11 and on terrorism in its aftermath, in both Pakistan and India, showing how these matters have been debated in `ulama circles and what tensions mark the effort to forge a consensus on such issues.



SOME COMPARATIVE DIMENSIONS OF THIS STUDY ARE WORTH POINTING TO IN concluding this chapter. Some of the topics I examine here have been studied by others. The idea of *maslaha*, the common good, has received some attention; *ijtihād* has often been discussed in a variety of contexts, by both scholars and Muslim reformist thinkers; and a great deal continues to be written, of course, on education, violence, and on the position of women in Muslim societies. Yet these themes have never before been considered together in a comparative framework. Some of the people I discuss here have also been studied by others. This is especially the case with Rashid Rida, on whom a good deal of scholarly, albeit uneven, literature already exists. Yet Rida's work has been little studied in frameworks that go beyond Arab thought or beyond Salafism, and never with reference to South Asia.¹³⁸ Yusuf al-Qaradawi as well has received some scholarly attention. However, Qaradawi, too, has not so far been studied in relation to other – earlier or contemporary – figures. Although he invokes Rida extensively in his writings, the two have never been examined together either by those writing on Rida or by those studying Qaradawi. Nor have the Deobandis, on whom I have written extensively, ever been studied in comparison with the reformist Salafis or with any other orientations outside the South Asian context.

The significance of the last-mentioned comparison, I believe, is three-fold. Firstly, it allows me to assess in a single framework intellectual and religiopolitical developments in two major regions of the contemporary Muslim world: the Arab Middle East and South Asia. Secondly, a comparative approach helps me to bring out the interactions that some of the people discussed here have had with others. Rida, as noted, had visited India in 1912 and had met a number of prominent religious scholars, at Deoband and elsewhere, on this occasion. Indian scholars contributed to *al-Manar* and addressed questions to Rida; and some of Rida's works, notably a treatise on financial interest and another on women, were occasioned by queries and invitations from India. Qaradawi, for his part, refers to Rida frequently in his work, although some of his contrasts with Rida are as interesting as are the continuities between them. Qaradawi has also interacted with a number of South Asian religious scholars, and several Deobandis are associated with his International Union of Muslim Scholars. It is worth mentioning, too, that

¹³⁸ For a recent collaborative effort, see Stéphane Dudoignon et al., eds., *Intellectuals in the Modern Islamic World: Transmission, Transformation, Communication* (London: Routledge, 2006). Also see Michael Laffan, *Islamic Nationhood and Colonial Indonesia: The Umma below the Winds* (London: RoutledgeCurzon, 2003).

Qaradawi is among the honorary members of the Indian Fiqh Academy, alongside several other figures from the contemporary Arab world.

The comparative framework of my study does not depend on the fact that several of these figures knew or cite one another, but it certainly provides one justification for my choices. Another comes from the fact that the people I discuss in this book have written on several of the themes I examine here. My approach is illustrative rather than exhaustive, however, which means that the themes I have chosen are hardly the only ones in terms of which the style, content, and ambiguities of internal criticism could have been studied; nor do I examine *every* individual from my cast of characters with reference to any particular theme. It is also illustrative in another sense. Some of the figures I study in this book – Rida and Qaradawi – are far better known than are the Deobandis examined here, although they are all important figures in the Deobandi context; and the Deobandi orientation is, for its part, among the most influential facets of Islam in modern South Asia. Irrespective of their name recognition in the greater Muslim world, the figures brought together here give us a reasonably broad picture of key trends and tensions in the thought of reformist `ulama in general, and it is this that justifies the attention they receive here. It remains the case, however, that figures other than the ones I have focused on could conceivably have been chosen to tell the story of internal criticism in modern Islam. My justification for these choices is based on a combination of their engagement, individually and severally, with a number of this book's key themes, their often substantial oeuvre, and the fact that their careers vividly illustrate important developments in the worlds they inhabited.

A comparative examination of the Deobandis and the Salafis enables me, thirdly, to shed new light on the question of the evolving relationship between the two orientations. It should be borne in mind that I am not concerned with the Salafis in general any more than I am with the generality of the Deobandis. South Asia has its indigenous Salafī community, commonly known as the Ahl-i Hadith – a designation that underscores their desire to be guided by the Islamic foundational texts, the Qur'an and the hadith-reports attributed to the Prophet Muhammad, rather than the norms of the medieval schools of law. As Martin Riexinger has observed, however, the South Asian Ahl-i Hadith have tended to be highly conservative on social issues, and their effort to challenge the authority of the schools of law has seldom been accompanied by any significant break with existing social mores.¹³⁹ I concur with this view and I believe that it is more illuminating to put the aforementioned reformist Salafis into a comparative framework not with the Ahl-i Hadith of South Asia but rather with select figures from the Deobandi tradition. To

¹³⁹ Martin Riexinger, "How Favorable is Puritan Islam to Modernity? A Study of the Ahl-i Hadis in Late Nineteenth/Early Twentieth Century South Asia," in Gwilyn Beckerlegge, ed., *Colonialism, Modernity, and Religious Identities: Religious Reform Movements in South Asia* (Delhi: Oxford University Press, 2008), 147–65. Also see idem, *Sana'ullah Amritsari (1868–1948) und die Ahl-i-Hadis im Punjab unter britischer Herrschaft* (Würzburg: Ergon, 2004).

do so is not to endorse assertions in the media and policy circles about the growing alliance of militant Salafis and Deobandis nor, for that matter, to necessarily deny the existence of such accord in particular instances.¹⁴⁰ It is rather to see what new light can be shed on how those belonging to these orientations have thought about certain pressing questions of reform in the modern Muslim world and how their paths have sometimes crossed.

In adopting a broad comparative framework, I hope not only to point to the self-conscious cosmopolitanism of the intellectuals who are the subject of this book but also to note some of the limits to that cosmopolitanism. If the movement of people and ideas across borders is worth examining in terms of its intellectual, religious, and political effects, so, too, is the question of how ideas originating in one context get translated into another, how the global is refracted at local levels, and by the same token, how the jockeying for influence in local contexts can sometimes reverberate far beyond those particular locales. Despite the proliferation of writings on globalization, the question of how Islamic discourses articulated in different contexts and for different audiences do or do not interact with one another remains poorly understood. The multisited engagements of our internal critics that are the subject of this book can shed some light on this question, too.

¹⁴⁰ Among others, leaked U.S. diplomatic cables from Pakistan sometimes assume the conflation of the Deobandis and the Salafis (or Ahl-i Hadith). See, for instance, "Extremism in Southern Punjab and Northern Sindh," U.S. Embassy, Islamabad, October 23, 2009, #230969 (reprinted on <http://www.Dawn.com> [accessed May 22, 2011]). Also see "Extremist Recruitment on the Rise in Southern Punjab," US Consulate Lahore, November 13, 2008, # 178082 (www.Dawn.com, accessed May 22, 2011).

PART ONE





Rethinking Consensus

OBSERVERS OF MODERN MUSLIM SOCIETIES, AND NOT JUST SCHOLARS of Islamic law, have long recognized the centrality of the doctrine of consensus (*ijma`*) in Islam. This centrality is underscored above all by the place of consensus, alongside the Qur'an and the normative example of the Prophet Muhammad (*sunna*), as a fundamental source of law and legal norms in Sunni Islam. While Shi'i jurists have usually been far less certain of it, consensus has wielded considerable authority even among the Shi'a. Whether consensus meant the agreement of the community as a whole or only that of its legal scholars has long been debated, although premodern jurists – the people primarily writing about the matter – typically limited it to their own ranks. There also was debate about precisely how consensus was arrived at or how the fact that it had indeed been reached was ascertained. For all the uncertainties about it, the authority of consensus, once arrived at and ascertained, was nonetheless denied by few, and Muhammad's reported statement that the community “would not agree on an error” was both widely accepted and influential.¹

Yet no foundational source of Islamic legal norms has been more severely challenged in modern times than the doctrine of consensus. It is true that the statements attributed to the Prophet Muhammad have also been the subject of much debate. Such debate has usually been concerned, however, with the authenticity of particular reports, not the normative authority of his teachings themselves.² By contrast, rejection of consensus has often been more categorical. Islamist critiques of the wrong turns Muslims have allegedly taken throughout the course of their history

¹ The modern scholarly literature on consensus is uneven, but notable studies include Ahmad Hasan, *The Doctrine of Ijma` in Islam* (Islamabad: Islamic Research Institute, n.d. [1976]); George F. Hourani, “The Basis of Authority of Consensus in Sunnite Islam,” in idem, *Reason and Tradition in Islamic Ethics* (Cambridge: Cambridge University Press, 1985), 190–226; Wael B. Hallaq, “On the Authoritativeness of Sunni Consensus,” *International Journal of Middle East Studies* 18 (1986): 427–54; idem, *A History of Islamic Legal Theories: An Introduction to Sunni Usul al-Fiqh* (Cambridge: Cambridge University Press, 1997), especially 75–81; Farzana Shaikh, *Community and Consensus in Islam: Muslim Representation in Colonial India, 1860–1947* (Cambridge: Cambridge University Press, 1989); Devin J. Stewart, *Islamic Legal Orthodoxy: Twelver Shiite Responses to the Sunni Legal System* (Salt Lake City: University of Utah Press, 1998). Also see *The Encyclopaedia of Islam*, 2nd ed. (Leiden: 1960–2002 [hereafter *EF*]), s.v., “Idjma” (article by M. Bernand).

² See Daniel Brown, *Rethinking Tradition in Modern Islamic Thought* (Cambridge: Cambridge University Press, 1996).

are also an indictment, for instance, of the traditional Sunni view that the community as a whole is protected against error. For their part, Muslim modernists have often been vehement in imputing the intellectual decline of Muslim societies to the doctrine of consensus. Modernist critiques of consensus take various forms, but there remains a powerful narrative that views consensus as having encouraged servile conformity to authority and thus a concomitant hostility to growth, innovation, and change – in law as in other facets of Muslim life. The Pakistani modernist Fazlur Rahman (d. 1988) spoke for many others when he characterized consensus as a mechanism of “traditional authoritarianism” and as a major cause of the “stagnation” of Sunni Islam in the premodern period.³ To him, consensus represented the community’s “tremendous digestive power,” which had enabled it to “swallow small changes without perceptibly moving forward.”⁴

Whether implicitly or explicitly, it is the `ulama whom modernist and other critics typically identify with this traditional authoritarianism and who, as such, have usually borne the brunt of their criticism on this and other scores. This identification is, of course, hardly surprising and, shorn of its pejorative connotations, it is readily embraced by the `ulama. After all, the `ulama’s identity and authority rest, more than anything else, on a continuous engagement with the historically articulated Islamic religious and especially the juristic tradition. The authority and coherence of this tradition depend, in turn, on the conviction that it represents fundamental and continuously transmitted agreements on key doctrines and practices across generations of scholars.

Yet despite frequent invocations of it, the discourses of the modern `ulama on consensus reveal a considerable variety of perspectives. This diversity is adequately acknowledged neither in the modernist (or Islamist) critiques of consensus, nor even in Western studies of modern Islamic thought. Indeed, when the `ulama’s perspectives have not been simply missed or ignored in modern scholarship altogether, they have usually been noticed largely to the extent that they conform to – and thus can be studied as part of – *modernist* critiques of consensus.⁵ I will briefly comment on facets of the modernist discourse on consensus, but my principal concern in this chapter is to examine some of the ways in which the reformist `ulama have thought about issues relating to consensus. I focus here on Muhammad Rashid Rida, `Ubayd Allah Sindhi, and Yusuf al-Qaradawi. Taken together, they provide us with a picture of the varied ways in which consensus has figured in internal criticism and what contestations on religious authority have accompanied the debates on it. In the first of the several instances we will encounter in this book, these discourses also allow us an opportunity to glimpse the fraught relationship between the rhetoric of reformist thought and its content.

³ Fazlur Rahman, *Islam*, 2nd ed. (Chicago: University of Chicago Press, 1979), 78, 201.

⁴ Fazlur Rahman, *Islam and Modernity: Transformation of an Intellectual Tradition* (Chicago: University of Chicago Press, 1982), 146.

⁵ See, for example, G. Hourani, “The Basis of Authority,” 210–14.

REVISITING “THOSE IN AUTHORITY”

One of the most detailed modern discussions of issues relating to consensus occurs in the course of Rashid Rida’s commentary on Qur’an 4:59.⁶ Rida’s commentary, best known as *Tafsir al-Manar* since it was serialized in his journal, is based, in part, on the lectures Muhammad `Abduh had delivered on the Qur’an at al-Azhar, with Rida in attendance. These lectures only take the exegesis till Q 4.126, however. (Rida completed the last section comprising `Abduh’s lectures while in Bombay, on his way back home, in May 1912.)⁷ The rest is Rida’s work. However, even the portions based on `Abduh’s lectures were written by Rida, and the entire commentary, which remained incomplete at the time of his death in 1935, must in the first instance be regarded as the work of Rida.⁸

Qur’an 4:59 reads: “You who believe, obey God and the Messenger, and those in authority among you (*uli’l-amri minkum*). If you are in dispute over any matter, refer it to God and the Messenger, if you truly believe in God and the Last Day: that is better and fairer in the end.” Rida’s discussion of consensus – which does not explicitly figure in this verse – is intimately tied to his discussion of “those in authority,” and it seems best to begin with the latter.

Medieval and modern exegetes as well as other scholars have disagreed a good deal in their understanding of who is meant by “the people in authority.” One influential view is that this phrase refers to rulers, governors, military commanders, and the like.⁹ Among Rida’s contemporaries, the Hijaz-born Indian scholar and politician Abu’l-Kalam Azad (d. 1958), whose treatise on the caliphate was serialized in *al-Manar* shortly before Rida began publishing his book on the subject, was a strong proponent of this position.¹⁰ A rival view understands this Qur’anic

⁶ Muhammad Rashid Rida, *Tafsir al-Qur’an al-karim al-mashhur bi-Tafsir al-manar*, 12 vols. (Cairo: Dar al-Manar, 1947–54; hereafter *Tafsir al-manar*), 5: 179–222.

⁷ *al-Manar* 15 (1912): 331.

⁸ `Abduh, it should be noted, is the author of a commentary on the last thirtieth segment of the Qur’an, a work that is not a part of the *Tafsir al-manar*. See n. 27. The question of how “true” Rida is to `Abduh’s views and whether Rida tended to portray his mentor in a more conservative light as his own views evolved is an important one, but with my primary focus on Rida rather than `Abduh, it does not seem necessary to resolve it here. As for Rida’s own views, while they inevitably changed in many respects, it is difficult to posit any sharp break between an early and a late Rida, as is sometimes suggested. Cf. Dallal, “Appropriating the Past,” 342.

⁹ See, for instance, al-Tabari, *Tafsir al-Tabari, Jami` al-bayan`an ta`wil ay al-Qur’an*, ed. Mahmud Muhammad Shakir and Ahmad Muhammad Shakir, 16 vols. (Cairo: Dar al-ma`arif, 1950–60), 8: 497–9 (this is the view that Tabari himself endorses: *ibid.*, 8: 502–4); Ibn Abi Hatim, *Tafsir al-Qur’an al-`azim*, ed. As`ad Muhammad al-Tayyib, 14 vols. (Mecca: Maktabat Nizar Mustafa al-Baz, 1999), 3: 988; al-Baydawi, *Tafsir al-Baydawi al-musamma Anwar al-tanzil*, 4 vols. (Cairo: Matba`at Mustafa Muhammad, n.d.), 2: 94–5.

¹⁰ Abu’l-Kalam Azad, *Mas’ala-i khilafat wa jazirat al-`arab* (Calcutta: All India Khilafat Committee, 1920), 26–7. This work, written before the abolition of the Ottoman caliphate, was translated into Arabic by `Abd al-Razzaq Malihabadi and serialized in *al-Manar* in 1922. See *al-Manar* 23 (1922): 45–56, 102–6, 193–201, 282–9, 466–71, 509–12, 691–5, 753–7. The Arabic version is not an exact translation of the Urdu, however, and Azad seems to have modified what would appear in the Arabic version.

characterization as referring to the religious scholars.¹¹ Yet another view has sought to reconcile these two views without, however, exhausting the spectrum of exegetical guesswork on this question. This third view counts both the political-military leadership *and* the religious elite, together with other influential people, among those in authority, and it is this position that Rida, following his mentor, adopted.

According to Rida, `Abduh understood the Qur'an's people of authority as the equivalent of those the medieval jurists referred to as "the people who loosen and bind" (*ahl al-hall wa'l-'aqd*), that is, the religious and political notables entrusted with the election and deposition of the caliph. As one might expect, this equation between the two categories – the latter of which is extra-Qur'anic – is to be found in the work of some medieval exegetes. It occurs, for instance, in the commentary of the medieval rationalist exegete Fakhr al-din al-Razi. It is Razi, too, who had made a forceful case for the relevance of Q 4.59 to the doctrine of consensus, although he had taken the makers of consensus to be exclusively the scholars. That is, he had adopted the second of the three views mentioned earlier.¹² In support of this interpretation, Razi had argued that the directive to "obey God and the Messenger, and those in authority among you" required that those in authority should be infallible, for otherwise the Qur'an would seem to condone following people in their error. Such authority did not belong to the rulers who, after all, often "commanded nothing but injustice" any more than it did to the Shi'i imam for, according to Imami belief, he was in hiding and thus inaccessible. It belonged rather to the community as a whole, as represented by those who loosen and bind its public affairs. To Razi, these were none other than leading scholars of the law.¹³

`Abduh claimed not to have been aware of Razi's discussion of this verse. According to Rida, his mentor had thought himself unique in understanding those in authority as those who loosen and bind, and it was only when he saw another medieval commentary, that of Nizam al-din al-Nisaburi (d. ca. 1330), that he had become cognizant of antecedents to this view.¹⁴ This is not an altogether convincing claim, however. A scholar of `Abduh's standing is likely, after all, to have been well-acquainted with Razi's important commentary, of which more than one edition had been published in Egypt in `Abduh's lifetime.¹⁵ And Nisaburi's commentary is itself plainly based on Razi's work. Even Rida seems to have been skeptical of

For instance, he provides a much more expansive discussion of "those in authority" in the Arabic version (*al-Manar* 23 [1922]: 195–201) than he does in Urdu. Rida began publishing what became his own treatise on the caliphate even as Azad's was being serialized. The first installment of Rida's treatise was published in *al-Manar* 23 (1922): 729–52.

¹¹ E.g., al-Tabari, *Tafsir*, 8: 499–501; Ibn Abi Hatim, *Tafsir*, 3: 989; Baydawi, *Anwar*, 2: 95.

¹² Fakhr al-din al-Razi, *al-Tafsir al-kabir*, 32 vols. (Tehran: N.p., n.d.), 10: 145–6. For Razi's full discussion of this verse, see 142–52.

¹³ *Ibid.*, 10: 144–6.

¹⁴ Rida, *Tafsir al-manar*, 5: 182–3. On Nisaburi, see Robert G. Morrison, *Islam and Science: The Intellectual Career of Nizam al-din al-Nisaburi* (London: Routledge, 2007).

¹⁵ One edition was published by the Bulaq Press in 1872 and another by al-Matba'a al-khayriyya in 1889–90.

his mentor's putative lack of acquaintance with Razi's commentary.¹⁶ According to him, the real reason why `Abduh referred to Nisaburi's commentary on Q 4.59 rather than to Razi's has to do with the question of who counts as belonging to the people of authority; and it is Nisaburi, not Razi, who is suitably aligned with `Abduh's understanding on this score.¹⁷

To Razi, as has been seen, the people of authority, the people who loosen and bind, and, indeed, "the people of consensus" (*ahl al-ijma`*) are all one and the same, and these are the leading jurists – the sort of people who are capable of *ijtihād*. In fact, he had explicitly excluded everyone else from this category:

Our position is that consensus only takes place through the views of those `ulama who are capable of deriving God's law from the texts of the Book and the sunna. . . . Those who are qualified to "command" and to "forbid" in matters of the sacred law are none other than this category of the `ulama. The theologian, who doesn't know how to derive the laws from the foundational texts has no standing so far as his commanding and forbidding are concerned. The same is true of the exegete and the hadith-scholar . . . as well as of the commoner. . . .¹⁸

Nisaburi, on the other hand, had expanded the definition of those in authority to "those who loosen and bind *and* people of esteem and [respected] opinions" (*ashab al-i`tibar wa'l-ara*).¹⁹ For all his desire to anchor religious discourses in the Islamic foundational texts irrespective of how the medieval tradition had construed them, `Abduh was no doubt grateful for any support he could get from that tradition.²⁰ And Nisaburi, with his expansive definition, provided him with a foothold in the tradition. As `Abduh puts it:

"Those in authority" are the Muslims who "loosen and bind." And these are the rulers and the governors, the `ulama, the military commanders, and all those leaders and notables to whom people turn in need and in matters concerning the common good (*al-masalih al-`amma*). When they all agree on a matter, it is necessary that they be obeyed, provided [the following conditions are satisfied]: that they be from amongst us; that they not contravene a command of God or the [most authoritative of] the reported teachings of the Prophet . . . ; that they be unconstrained in their discussion on the matter [in question] and in their agreement on it; and that what they do agree

¹⁶ Rida, *Tafsir al-manar*, 5: 182.

¹⁷ *Ibid.*, 5: 182–3. One might well think that `Abduh may not have wanted to be seen as citing Razi, given the latter's mixed reputation in conservative Sunni circles for his rationalist leanings. But there is nothing to suggest that `Abduh was trying to appease anyone by ignoring him, and Rida, with a rather more conservative bent than `Abduh's, continues to refer to Razi.

¹⁸ Razi, *Tafsir*, 10: 150.

¹⁹ Nizam al-din al-Hasan al-Nisaburi, *Ghara'ib al-Qur'an wa ragha'ib al-furqan*, 30 vols., ed. I. `A. `Iwad (Cairo: Mustafa al-Babi al-Halabi, 1962–71), 4: 68; Rida, *Tafsir al-manar*, 5: 183.

²⁰ One does not, however, need to wait for Nisaburi to make this point. Much earlier commentaries, e.g., the early tenth-century Ibn Abi Hatim's, cited views according to which those in authority were "the people of knowledge, understanding (*al-fiqh* [here understood in a generic sense rather than specifically as law]), intellect, and considered opinion (*al-ra'y*)." Ibn Abi Hatim, *Tafsir*, 3: 989.

upon is itself a matter of the common good and one that those in authority have the requisite authority and knowledge to rule on . . . ²¹

For his part, Rida would add many others to `Abduh's already open-ended list, including those occupying leading positions in commerce, manufacturing, and agriculture; politicians; and, not coincidentally, in view of his own vocation, respected journalists.²²

This broadening of consensus beyond the ranks of the `ulama, let alone of the leading jurists, is, of course, an unabashed effort to wrest exclusive control of the authoritative Islamic discourses from the traditionally trained scholars.²³ Even as they belonged to those circles, `Abduh and Rida were at loggerheads with many of them, and their view of who counts in the making of consensus is a theoretical justification for putting those traditionalists in their place. The strategy here was not to exclude such scholars from the ranks of those who shaped consensus, which would have been impossible on account of their continuing influence in society, not to mention the fact that many medieval commentators recognized them as the sole founts of consensus. It was rather to place many other groups alongside them, much like a medieval commentator might try to take the sting out of uncomfortable but influential views by piling up a variety of countervailing opinions next to those he wanted destabilized.²⁴

As the foregoing statement by `Abduh underscores, the expansive definition of those whose consensus should matter is also an argument for renewed attention to the common good. One already turned to certain categories of people in matters of the common good, but his recommendation is that the voices of such people should be given a formal religious justification as well. The implication is, of course, that doing so would both reduce the lamentable distance between theory and practice and make religion and the law more receptive to people's needs. As Rida spells it out, an important corollary of tying consensus to the common good, and one that takes its stand against a good deal of the medieval juridical tradition, is the idea that consensus need not be binding for all times, that it is to be set aside when the common good so dictates.²⁵ Rida is scarcely averse to invoking the timeless and

²¹ Rida, *Tafsir al-manar*, 5: 181.

²² *Ibid.*, 5: 187.

²³ On the effort to redefine consensus as more than the *ijma`* of the jurists, see also *ibid.*, 5: 186–7, 192–4, 208, 214.

²⁴ On this scholastic strategy as used in medieval Qur'an commentaries, see Walid A. Saleh, *The Formation of the Classical Tafsir Tradition: The Qur'an Commentary of al-Tha'labi (427/1035)* (Leiden: Brill, 2004).

²⁵ Rida, *Tafsir al-manar*, 5: 208. Kerr, *Islamic Reform*, 203–4, detects an unresolved tension between Rida's traditional view of the infallibility of consensus (a consensus that had typically been arrived at retrospectively), on the one hand, and on the other, the fact that *ijma`* as a collective *ijtihad* designed to meet new problems in the modern world would be anything but infallible. I make a somewhat similar point toward the end of this chapter, although it should be noted that I am inclined to see less of a tension here than Kerr does. Rida does acknowledge, after all, that the *ulu'l-amr's* agreement

binding consensus of earlier scholars when it suits his argument,²⁶ but, like his mentor, he wants to be able to sidestep it when necessary.²⁷

If consensus is not merely the agreement of the jurists, and especially of the jurists of previous generations, how, precisely, is it to be arrived at in the present? Rida suggests that those in authority may well take the form of the elected representatives of the people, comprising a consultative or legislative body that has been delegated by them to decide things on their behalf.²⁸ Essentially, he sees the work of those in authority, as brought together in this assembly, as a form of collective *ijtihād* and, as such, as the equivalent of consensus.²⁹ We will examine some recent institutional expressions of the idea of collective *ijtihād* in the following chapter, but two points are worth noting here.

First, Rida conceives of a division of labor within the ranks of his assembly. The members of this assembly may conceivably elect a number of people from their own ranks to deal with particular problems, and the agreement of that group would count as *ijma`*.³⁰ As for matters on which those in authority differ, recourse is to be had, according to Rida, not to a simple majority vote but rather to the *shari`a*'s foundational texts, the Qur'an and the *sunna*. Here again, it is a select body from among the ranks of those in authority that is to see how the guidance provided by the foundational texts is to be interpreted in the matter at hand to resolve the particular disagreements.³¹ The ultimate authority to settle disagreements belongs, however, to the caliph – “the great imam” – who ought,

is binding on others not because it is infallible but because it saves the larger community from dissension. Rida, *Tafsir al-Manar*, 5: 181–2.

²⁶ Ibid., 9: 312–14 (commenting on Q 7. 158). The consensus in question relates to the obligation on all Muslims to learn Arabic to be able to understand the Qur'an in its original language. This theme exercised Rida a good deal throughout his career. For some other illustrations, cf. Muhammad Rashid Rida, *Nida lil-jins al-latif* (Cairo: Matba'at al-manar, 1932), 7, 10, 111; *al-Manar* 7 (1904): 461; *al-Manar* 19 (1916–17): 48.

²⁷ Cf. Muhammad `Abduh, *Tafsir al-Qur'an al-karim, juz `amma*, 3rd ed. (Cairo: Matba'at Misr, 1922–3), 141, arguing against the alleged consensus that the unbelievers would not receive any reward for their good deeds on the Day of Judgment. For a rejoinder, see Sayyid Qutb, *Fi Zilal al-Qur'an*, 30 vols. in 8, 5th ed. (no place of publication; 1966–7), 30: 239 n. 1. Qutb's argument is not that there is a consensus on this matter but rather that the Qur'an itself affirms that the deeds of the unbelievers would not come to anything. The Salafi `Abduh had likewise argued on Qur'anic grounds, but to the opposite effect.

²⁸ Rida, *Tafsir al-manar*, 5: 198–201. For an explicit equation between the *ulu'l-amr* and those “referred to by people today as the legislative body,” see *ibid.*, 5: 187.

²⁹ Ibid., 5: 211: “. . . the *ijtihād* of ‘those in authority’ is the third of the [fundamental] sources of the *shari`a*; and when they agree on an opinion, acting according to it becomes binding on the individuals of the community and on its rulers . . .” Also *ibid.*, 5: 190.

³⁰ Ibid., 5: 200–2. As Gudrun Krämer has observed, however, there is no dearth of ambiguities in the writings of those who have appealed in modern times to the Qur'anic ideal of *shura* or consultation – not least in the matter of its relationship with *ijma`*. Gudrun Krämer, *Gottes Staat als Republik: Reflexionen zeitgenössischer Muslime zu Islam, Menschenrechten und Demokratie* (Baden-Baden: Nomos Verlagsgesellschaft, 1999), 124f. and index, s.v. “Konsens,” “*shura*.”

³¹ Rida, *Tafsir al-manar*, 5: 191.

therefore, to be well grounded in matters of the law.³² Indeed, as Rida put it about a decade after he had published his commentary on Q 4.59, the caliph needed to be a mujtahid, that is, capable of the highest degree of legal reflection or *ijtihad*. This view was expressed in the aforementioned treatise on the caliphate. Published in 1922–3 on the eve of the abolition of the Ottoman caliphate, its purpose was to both reconceptualize this institution so that it was no longer the sinecure of the corrupt, despotic, and ignorant rulers that had been the bane of Islamic history and, at the same time, to urge the Kemalists not to do away with it altogether.

The caliph, as Rida saw it, was not the only mujtahid in town, although he was necessarily the most authoritative among them.³³ He was to be elected to this office from among people who were all well-qualified to undertake *ijtihad* even as they were conversant, in glaring contrast with the sorry state of the contemporary *ʿulama*, with the challenges of the contemporary world. This religiopolitical elite *as a whole* is to comprise the Qurʾanic people of authority. The point is worth stressing to distinguish Rida’s position from that of some of his contemporaries, who wished to invest the caliph (or some such ruler) with all authority. In his treatise on the caliphate serialized in *al-Manar*, Abuʾl-Kalam Azad had severely castigated the view of al-Razi that the Qurʾan’s people of authority meant the jurists, insisting rather that the phrase referred to none but the rulers.³⁴ In his footnotes to the published text of this Indian politician and scholar, Rida, for his part, had defended Razi – which is rather remarkable in view of Rida’s own disagreements with Razi’s position.³⁵ An obvious explanation for this defense surely is that Rida did not want to see the scholars and, by extension, other public intellectuals excluded from the ranks of the people of authority. However, it is also motivated by the desire to maintain a check on the authority of the caliph through the agency of like-minded and similarly qualified people. They, and not the ruler alone, are the people who collectively embody the conscience of the community, people who help forge its evolving consensus.

Second, although Rida is not keen to stress the novelty of visualizing his people of authority as an assembly of delegates, “this incorporation of *ijmaʿ* into a formal institution” is, as Malcolm Kerr observed, “a new departure unprecedented in Islamic history.”³⁶ We can only speculate about how influential Rida’s views have been on this score, but there is little question that the idea itself – that is, the institutionalization of *ijmaʿ* – has come to figure prominently in many subsequent

³² *Ibid.*, 5: 191; *idem*, *al-Khilafa aw al-imama al-ʿuzma* (Cairo: Matbaʿat al-Manar, 1922–3), 79.

³³ *Ibid.*, 79. Also see [Chapter 5](#).

³⁴ Azad, “al-Khilafa al-Islamiyya,” *al-Manar* 23 (1922): 199–201. It is worth noting that although Azad makes a similar point in his Urdu treatise, of which the Arabic purports to be a translation, Razi remains unmentioned there. This may have had to do with Azad’s apprehensions about sensitivities among the Indian *ʿulama* to sharp criticism of a major figure of the medieval Sunni tradition.

³⁵ See especially note #2 to *ibid.*, 200.

³⁶ Kerr, *Islamic Reform*, 197; cf. Hourani, *Arabic Thought*, 234.

articulations, among modernists as well as the `ulama.³⁷ An early and prominent expression of this idea is to be found in a famous lecture on *ijtihad* delivered by an Indian contemporary of Rida's, the poet and philosopher Muhammad Iqbal (d. 1938) in 1930. Although Iqbal's modernist thought falls largely outside the purview of our discussion, the roots of this idea take us back into the world of the `ulama, and it therefore merits some attention here. We will briefly return to him in the next chapter as well.

In the lecture, which was published soon afterward as part of his *Reconstruction of Religious Thought in Islam*, Iqbal argued that *ijma`* – “perhaps the most important legal notion in Islam”³⁸ – should not be allowed to remain “a mere idea,” which is precisely what it had been for much of Islam's history. It ought, rather, to become a “permanent legislative institution,” the equivalent of a collectively undertaken *ijtihad*. “The transfer of the power of *Ijtihad* from individual representatives of schools to a Muslim legislative assembly which, in view of the growth of opposing sects, is the only possible form *ijma`* can take in modern times, will secure contributions to legal discussion from laymen who happen to possess a keen insight into affairs.” He continued: “In this way alone we can stir into activity the dormant spirit of life in our legal system, and give it an evolutionary outlook.”³⁹ As for the consensus of the earlier generations, and even the consensus of the companions of the Prophet, Iqbal, like `Abduh and Rida, remained unimpressed with its binding authority.⁴⁰ He recognized that making the legislative assembly the arena of *ijtihad* and of *ijma`* – of which he took the Turkish Grand National Assembly's decision, in 1924, to abolish the caliphate as a valid instance – could lead to “grave mistakes,” for most legislators would know nothing about “the subtleties of Mohammedan Law.” However, he sought to remedy this danger by having the `ulama guide the legislative process, although the long-term solution he had in view was to reform the structure and content of legal education.⁴¹

If Iqbal's formulations on consensus were indebted to those of `Abduh and Rida, he did not say so. But the idea of a collective *ijtihad* undertaken by a legislative assembly, and the suggestion that such *ijtihad* need not be the preserve of the `ulama who could yet be associated in some form with the work of this body, has strong parallels with Rida's thinking on this matter. In the course of his own informal studies in Islamic law and legal theory, and especially while at work on his lecture on *ijtihad*, Iqbal was in close contact with Sayyid Sulayman Nadwi (d. 1953), a distinguished product of the Nadwat al-`Ulama in Lucknow and the

³⁷ Cf. John R. Bowen, *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning* (Cambridge: Cambridge University Press, 2003), 189–99.

³⁸ Mohammad Iqbal, *The Reconstruction of Religious Thought in Islam* (Oxford: Oxford University Press, 1934), 164.

³⁹ *Ibid.*, 165.

⁴⁰ *Ibid.*, 166.

⁴¹ *Ibid.*, 167.

star pupil of Shibli Nu'mani, at whose invitation Rida had come to India in 1912.⁴² It is conceivable that Iqbal had imbibed Rida's ideas through Sulayman Nadwi's influence, if not directly from a reading of *al-Manar*.⁴³

As we might expect, however, ideas from other sources were also at work in Iqbal's reformulation of consensus. Shah Wali Allah, the eighteenth-century north Indian thinker, is one such source. Not unlike internal critics among the modern `ulama, Wali Allah was deeply suspicious of what he deemed spurious claims to consensus.⁴⁴ He did not deny the authority of consensus in principle, any more than they do, but he did try to restrict its scope. One way of doing so was by presenting the decisions of the first caliphs, especially Muhammad's second successor `Umar b. al-Khattab (r. 634–44), as the exclusive fount of authoritative consensus, the veritable source of the legal norms of the major schools of Sunni law.⁴⁵ Besides restricting what would count as genuinely authoritative consensus, this view serves to highlight – not unlike Rida's in a later age – the role of constituted political authority in the making of consensus.⁴⁶ Although Iqbal does not invoke Wali Allah on this score, he clearly saw the Turkish Grand National Assembly as the rightful political authority that was now articulating a new consensus. As he put it in his lecture, whereas other Muslims were “mechanically repeating old values,” the Turks were “on the way to creating new values.”⁴⁷

⁴² Iqbal's indebtedness to Sulayman Nadwi on matters pertaining to the history of Islamic law comes across strongly in his letters to Nadwi. For a collection of these letters, see Shaykh `Ata Allah, ed., *Iqbal nama*, 2 vols. (Lahore: Shaykh Muhammad Ashraf, n.d.), 1: 75–200 passim.

⁴³ Iqbal seems never to have met Rida. The closest he came to collaborating with him was at an initiative of Shibli Nu'mani to establish a “theological council” (*majlis-i `ilm-i kalam*), which would include `ulama as well as intellectuals of a modern formation. The former would determine what the “real” Islamic doctrinal beliefs were as a prelude to deciding whether they contradicted modern philosophical ideas; the latter would look at the problem from the opposite perspective to see whether modern philosophical positions were necessarily incompatible with the relevant Islamic doctrines. The initiative was guided by the conviction, of course, that there was less conflict between Islamic and modern thought than was claimed by people on both sides of the divide. Iqbal had agreed to become part of this council, but Rida's response is not known, and the idea did not come to anything. (Incidentally, Iqbal was to have been a member of the modern-educated camp and Rida one of those representing the `ulama.) For the proposal, see Shibli Nu'mani, “Majlis-i `ilm-i kalam,” in idem, *Maqalat-i Shibli* (A`zamgarh: Dar al-musannifin, 1930–8), 8: 53–5. The essay was first published in March 1912.

⁴⁴ Shah Wali Allah, *Hujjat Allah al-baligha*, 2 vols. (Cairo: Dar al-turath, 1936), 1: 121; *The Conclusive Argument from God: Shah Wali Allah of Delhi's Hujjat Allah al-Baligha*, translated by Marcia Hermansen (Leiden: Brill, 1996), 350–1.

⁴⁵ Shah Wali Allah, *Qurrat al-`aynayn fi tafdil al-shaykhayn* (Lahore: al-Maktaba al-salafiyya, 1976), 171, 185; cf. idem, *Izalat al-khafa `an khilafat al-khulafa*, 2 vols. (Lahore: Suhayl Academy, 1976), 1: 130. For a discussion of Wali Allah's ideas on *ijma`* to which I am indebted, see Mazhar Baqa, *Usul-i fiqh awr Shah Wali Allah* (Islamabad: Idara-i tahqiqat-i Islami, 1973), 287–327, esp. 299–300, 309–11.

⁴⁶ Cf. Wali Allah, *Izala*, 1: 26. Also see Baqa, *Usul-i fiqh*, 309–10; Aziz Ahmad, “An Eighteenth-Century Theory of the Caliphate,” *Studia Islamica* 28 (1968): 135–44, at 143.

⁴⁷ Iqbal, *Reconstruction*, 154.

Iqbal was drawn to the idea that in certain circumstances the caliph could set aside particular legal norms, including those mentioned in the Qur'an.⁴⁸ He was likewise intrigued by the view, for which he drew on Wali Allah, that because the Prophet had had to take account of his particular milieu in instituting his norms and penalties, these should not be stringently imposed on later generations of Muslims.⁴⁹ As his correspondence with Sulayman Nadwi makes clear, Iqbal had come upon this view in a theological work by Shibli Nu'mani. The view has radical implications. As Shibli Nu'mani had somewhat cryptically observed in sympathetically commenting on it, "the extent to which the customs of the Arabs have been taken into account in case of the shari'a's stipulated punishments for theft, adultery (*zina*), murder etc. becomes evident from this principle. So does the question of the extent to which these punishments should be literally (*bi-`ayniha awr bi-khususih*a) adhered to [by others]."⁵⁰ Sulayman Nadwi did not warm to these implications as his teacher had spelled them out,⁵¹ although this did not dissuade Iqbal from citing Wali Allah much as Shibli had understood him.⁵² It is scarcely a big step from his understanding of Wali Allah and his toying with the idea of the ruler setting aside particular norms to his endorsing the Kemalist decision to do away with the caliphate itself. In the same correspondence, Iqbal had also discussed with Nadwi the question of whether the imam of Sunni constitutional theory necessarily referred to a single individual or if a group (*jama`at*) might conceivably also be designated as such.⁵³ Nadwi's response is not preserved, but, in his lecture on *ijtihad*, Iqbal explicitly endorses the view that the Turkish assembly should be seen as the legitimate stand-in for the defunct imam.⁵⁴

⁴⁸ Iqbal to Sayyid Sulayman Nadwi (April 7, 1926), in *Iqbal nama*, 1: 148–9. Rida was of the same conviction. See Rida, *Nida lil-jins al-latif*, 46, for the view that the imam of an "Islamic government" can temporarily prohibit what is otherwise permissible in light of the common good. Rida is speaking here of the possibility of prohibiting polygamy in certain circumstances, although the Qur'an allows it. Note, however, that Rida's view of polygamy was considerably more aligned with the traditional Islamic position than that of his mentor `Abduh. I will return to this in Chapter 6.

⁴⁹ Iqbal to Sayyid Sulayman Nadwi (September 2, 22, and 28, 1929), in *Iqbal nama*, 1: 160–3. Cf. Wali Allah, *Hujjat Allah*, 1: 118–19.

⁵⁰ Muhammad Shibli Nu'mani, *al-Kalam, ya `ni `ilm-i kalam-i jadid* (published as volume 2 of idem, *Ilm al-kalam*) (Karachi: Mas'ud Publishing House, 1964), 2: 237–8, commenting on Wali Allah, *Hujjat Allah*, 1: 118. Shibli Nu'mani's Urdu translation of a portion of Wali Allah's text is quoted in Iqbal's letter to Sulayman Nadwi (September 22, 1929), *Iqbal nama*, 161–2.

⁵¹ Nadwi's responses to Iqbal have not survived, but his annotations on Iqbal's letters, preserved as footnotes in the published version, give a taste of how he had responded. See *ibid.*, 149 n. 1. Also cf. *ibid.*, 161 n. 1, where Nadwi observes, "The expansive meaning that the late Mawlana Shibli has suggested for the words of Shah sahib [i.e., Shah Wali Allah] are incorrect."

⁵² Iqbal, *Reconstruction*, 163. Shibli Nu'mani, or Sulayman Nadwi for that matter, remains unacknowledged in Iqbal's published lecture on *ijtihad*.

⁵³ *Iqbal nama*, 1: 149–50.

⁵⁴ Iqbal, *Reconstruction*, 149.

LOCAL, EVOLVING, AND OVERLAPPING CONSENSUS

No one did more in twentieth-century South Asia to expound on Wali Allah's thought than `Ubayd Allah Sindhi. Indeed, Sindhi viewed his own work as little more than a commentary on the writings of Wali Allah, which he wanted to make the basis of a new movement of intellectual and religious reform. But while invocations of Wali Allah's ideas – and claims to his legacy – are ubiquitous in his discourse, Sindhi's own voice and views inevitably shape the ways in which Wali Allah is appropriated. I will return to the question of the relationship between Wali Allah's thought and Sindhi's rendering of it later in this book. In any case, Sindhi's ideas and his interpretations of Wali Allah's thought are of considerable interest for our discussion of consensus, although it should be borne in mind that he does not always characterize them as pertaining to issues of consensus nor does he present them in the context of a discussion specifically of consensus. This is as true of what I will describe as "local consensus" here as it is of his proposals regarding what might be called an "overlapping consensus."⁵⁵

Sindhi argues that if a movement of sociopolitical and religious reform is to be successful, it ought, wherever possible, to adapt itself to local consensus rather than explicitly challenge it. In their scope, the teachings of Wali Allah transcended differences of time and place, and yet, Sindhi says, many of the successors of Wali Allah sought to adapt his teachings to the norms specifically of the Hanafi school of Sunni law. They did so – and he is clearly thinking of Deoband here – because most Muslims in India adhere to the Hanafi school, and to have gone against its prescriptions would have created unnecessary, even insurmountable, obstacles on the reformist path.⁵⁶ Indeed, despite Wali Allah's personal distaste for the practice of taqlid, that is, of strict adherence to the legal norms and rules recognized as authoritative within one's school of law, he himself had considered it justified in the interest of maintaining a local consensus.⁵⁷ Wali Allah had argued, for instance, that a commoner belonging to the Hanafi school of law in India or Central Asia,

⁵⁵ I borrow the phrase "overlapping consensus" from the philosopher John Rawls (d. 2003). See "The Idea of an Overlapping Consensus," in idem, *Political Liberalism* (New York: Columbia University Press, 1996), 133–72. Although there are certain interesting parallels between the overlapping consensus as Sindhi and Rawls see it, my discussion here of Sindhi's ideas under this rubric should itself not be taken to imply any such parallels. For a systematic exploration of the idea of Rawlsian consensus with reference to Islam, though without reference to Sindhi, see Andrew March, *Islam and Liberal Citizenship: The Search for an Overlapping Consensus* (New York: Oxford University Press, 2009).

⁵⁶ `Ubayd Allah Sindhi, *Shah Wali Allah awr unki siyasi tahrik*, compiled and edited by Muhammad Sarwar (Lahore: Sindh Sagar Academy, 1970 [first published in 1944; hereafter *Tahrik*]), 112–14. For another extended argument in favor of adhering to local consensus, see Manazir Ahsan Gilani, *Muqaddima-i tadwin-i fiqh* (Lahore: Maktaba-i rashidiyya, 1976), 244ff. On Gilani, see [Chapters 4 and 5](#).

⁵⁷ `Ubayd Allah Sindhi, *Shah Wali Allah awr unka falsafa*, compiled and edited by Muhammad Sarwar (Lahore: Sindh Sagar Academy, 1998 [first published in 1944; hereafter *Falsafa*]), 175–85. For Wali Allah's views on ijihad and taqlid, see Shah Wali Allah, *ʿIqd al-jid fi ahkam al-ijihad wa'l-taqlid*, ed. Muhibb al-Din al-Khatib (Cairo: al-Maktaba al-salafiyya, 1965). Also see [Chapter 3](#).

where he could find neither scholars nor books belonging to other schools, must limit himself to the taqlid of his own school. Sindhi concurs with this view.⁵⁸ He adds that, inasmuch as the overall orientation represented by the school of law was shaped by the particular circumstances in which it found itself, being Hanafi in, say, Central Asia could not be the same thing as following this school of law in Iraq, India, or Egypt.⁵⁹ Incidentally, although he does not put it this way, this view could be used as an argument both in favor of taqlid – of adhering, in particular locales, to the broad principles and methods of the school of law rather than charting unfamiliar paths – and *against* it, in that, far from one size fitting all, the norms of the school ought to be adapted to local and regional contexts. Either way, it is an argument for taking local consensus seriously.

As Sindhi sees it, an early nineteenth-century effort on the part of some of the more enterprising but less astute disciples of Wali Allah to create a Muslim polity on the northwest frontier of the Indian subcontinent floundered precisely because they were not adequately attentive to local norms. His example here is the practice, sanctioned by Sayyid Ahmad of Rai Bareilly (d. 1831) – a reformer influenced by the teachings of Shah Wali Allah and his successors and often dubbed a Wahhabi by British observers – of forcing Pashtun women to marry the Muslim soldiers who had accompanied him to the frontier.⁶⁰ While Sayyid Ahmad's reasoning had been that he was thereby trying to rid the Afghans of the un-Islamic custom of not letting their widows remarry, the coercive implementation of otherwise widely recognized Islamic norms served only to turn the local people against the fledgling state. As Sindhi puts it, those with an “international” orientation had come up against others with “national” (or local) commitments and had lost in the face of the latter's opposition.⁶¹

However, although Sindhi emphasizes the importance of working with and through local consensus – and sometimes comes close, in doing so, to equating consensus with local customary practices – his view of consensus is anything but static. Consensus not only varies from one place to another, as the foregoing would suggest, but also from one time to another. The fundamental source of law in Islam, he insists, is *only* the Qur'an. The sunna, typically understood as the normative example of the Prophet and, as such, second in authority to the Qur'an itself, comprises, for Sindhi, the effort of the Prophet and his earliest companions to devise “bylaws” – a term he uses in Urdu transliteration – in light of the earliest

⁵⁸ Shah Wali Allah, *al-Insaf fi bayan sabab al-ikhtilaf*, ed. Muhibb al-din al-Khatib (Cairo: al-Matba'a al-salafiyya, 1965), 34. Quoted in `Ubayd Allah Sindhi, *al-Tamhid li-ta`rif a`immat al-tajdid*, ed. Ghulam Mustafa al-Qasimi (Jamshoro: Sindhi Adabi Board, 1976), 361–2.

⁵⁹ Sindhi, *al-Tamhid*, 362.

⁶⁰ On Sayyid Ahmad, not to be confused with the nineteenth-century Muslim modernist, see *ELZ*, s.v. “Ahmad Brelwi, Sayyid” (by S. Inayatullah); Ayesha Jalal, *Partisans of Allah: Jihad in South Asia* (Cambridge: Harvard University Press, 2008), 58–113. On his social and legal initiatives, including those relating to marriage, see *ibid.*, 97, 102.

⁶¹ Sindhi, *Tahrir*, 114–17.

community's needs and their shared understanding of the Qur'an. The sunna thus represents Islam's earliest "consensus" just as the evolving body of substantive Islamic law (*fiqh*) represents the evolving consensus of later generations of Muslims. In both cases, as in others, consensus reflects changing needs and remains subject to change by subsequent generations. The Qur'an alone is the source of timeless norms.⁶² "Any agreement – unanimous or by a majority – on the part of those who have established a government on the basis of the Qur'an's fundamental law is *ijma`*," Sindhi concludes, echoing Wali Allah's aforementioned view that political authority plays a decisive role in forging consensus.⁶³

Sindhi finds the makers of consensus to be described in Qur'an 9:100: "And the Outstrippers, the first of the Emigrants and the Helpers, and those who followed them in good-doing (*wa'lladhina'ttaba`uhum bi-ihsan*) – God will be well-pleased with them and they are well-pleased with Him . . ." ⁶⁴ This Qur'anic verse is not usually counted by medieval jurists to be among those relevant to consensus, and Sindhi himself does not do much to explain its relevance in this regard. However, there are clues in the medieval exegetical tradition that might account for its importance to him. In his commentary on this verse, al-Tabari (d. 923) adduces reports that evoke a time when the canonical text of the Qur'an had yet to be established – a development that is usually traced to the reign of the third successor of Muhammad, the caliph `Uthman b. `Affan (r. 644–56). Hearing this verse recited, the second caliph, `Umar b. al-Khattab, is said to have realized that, contrary to his earlier presumption, the Emigrants and the Helpers were *not* unique in their religious precedence and that others, too, might share with them the coveted rank this verse celebrates.⁶⁵ Although Sindhi does not cite such reports, this exegetical context suggests that, to him, this Qur'anic verse establishes the historical "connectedness" of the community's righteous elite even as it assures him of the rectitude of their agreements in their own day and age.⁶⁶ Consensus, then, means

⁶² Sindhi, *Falsafa*, 87–93.

⁶³ *Ibid.*, 91. Sindhi vaguely refers to Wali Allah's *Izalat al-khafa* toward the outset of his discussion of *ijma`* here. *Ibid.*, 87.

⁶⁴ I follow the translation of A. J. Arberry here: *The Koran Interpreted* (New York: Touchstone, 1996), 1: 219. The Emigrants (*al-muhajirin*) in this verse are those who had emigrated with Muhammad from Mecca to Medina in 622 CE; the Helpers (*al-ansar*) are those natives of Medina who had assisted these migrants in establishing themselves in their new surroundings.

⁶⁵ al-Tabari, *Tafsir*, 14: 347–8 (# 17116–17). There are echoes, in such reports, of disputes in the early community over questions of relative "precedence" (*sabiqa*) in the matter of conversion to Islam, a contested issue inasmuch as it determined not only social and religious prestige but also one's share in the stipends given out by the government. See Martin Hinds, "Kufan Political Alignments and their Background in mid-Seventh Century A.D.," *International Journal of Middle East Studies* 2 (1971): 346–67, esp. 348–9. Other reports, also involving `Umar, relate not to the ranking of the later Muslims in relation to the Emigrants and the Helpers, but to the politically charged question of the Helpers' ranking in relation to the Emigrants: cf. al-Tabari, *Tafsir*, 14: 438–9 (# 17118).

⁶⁶ For the "sense of connectedness" that underlies "Islamic traditionalism," see William A. Graham, "Traditionalism in Islam: An Essay in Interpretation," *Journal of Interdisciplinary History* 23 (1993): 495–522, esp. 501. Also see Qaradawi, *al-Siyasa al-shar`iyya*, 183.

the evolving agreements of those who follow the companions of Muhammad in “doing good” and who, like them, strive to “outstrip” one another in doing so:

As time passes and new circumstances arise, it will be incumbent on those following their forbears in good-doing (*ittiba` bi'l-ihsan*) and implementing the fundamental law of the Qur'an to debate the changes that have come about in their time. Just as the Emigrants and the Helpers [among the companions of Muhammad] had inductively derived their norms from the Qur'an's fundamental law, so would this “good-doing” group derive detailed rules [for its own time]. This would be their consensus. And in this regard, it would be incumbent upon others to adhere to the consensual decisions of these “doers of good.”⁶⁷

Sindhi's “doers of good” as the motor of consensus are the functional equivalent of Rashid Rida's “people of authority,” and Rida would have concurred with Sindhi's view of an *ijma`* that continued to evolve even as it was binding on the people of the time in and for which it had been arrived at.⁶⁸ However, if Sindhi shares with others a concern to make consensus an instrument of legitimizing change within the Muslim community, even of speeding it along, he is rather more lonely in advocating what might best be described as an interfaith, overlapping consensus. His own background – a Sikh convert to Islam who had remained poignantly devoted to his illiterate non-Muslim mother⁶⁹ – had no doubt contributed something to a degree of attentiveness toward non-Muslims that was unusual among his contemporary `ulama.⁷⁰ So did some of his theological-political views, which merit a comment here by way of background.

As would be recalled, Sindhi was forced to leave Deoband in 1913. This had to do principally with the intense nervousness his anti-colonial projects were creating in the madrasa's administration. The ostensible reason for his departure was not politics, however, but a theological controversy. Sindhi believed that people who had not formally been introduced to Islam would not be held accountable by God, on the Day of Judgment, for failing to become Muslims. Several other Deobandis held, on the other hand, that, after the advent of Islam, no one had the excuse not to become a Muslim on grounds of ignorance of its teachings.⁷¹ These fellow Deobandis accused Sindhi of the extremely grave offense of flouting the “essentials

⁶⁷ Sindhi, *Falsafa*, 91–2. Quotation at 91. For Sindhi's other related reflections on this verse, see Sindhi, *Qur'ani shu'ur-i inqilab*, compiled and edited by Shaykh Bashir Ahmad Ludhyanawi and Ghazi Khuda Bakhsh, revised by `Abd al-Ghani Qasimi (Lahore: Makki Dar al-kutub, 1997), 294.

⁶⁸ Cf. Rida, *Tafsir al-manar*, 5: 187, 190, 208.

⁶⁹ See Muhammad Sarwar, ed., *Ifadat wa malfuzat-i Hadrat Mawlana `Ubayd Allah Sindhi* (Lahore: Sindh Sagar Academy, 1972), 131.

⁷⁰ Religious identities were far from stable in Sindhi's rural Punjab in the late nineteenth century. His father had been a Hindu who became a Sikh. And, as Sindhi later noted, his Sikh family used to participate in many Sikh, Hindu, and Muslim festivals. Sindhi, “Khud-nawisht,” 145; Sarwar, *Ifadat*, 134.

⁷¹ Manazir Ahsan Gilani, *Ihata-i Dar al-'Ulum main bite huwe din*, ed. F'jaz Ahmad A`zami (Deoband: Maktaba-i tayyiba, n.d.), 166–7. For an English translation of the relevant passages from this work, see Muhammad Qasim Zaman, “Studying Hadith in a Madrasa in the Early Twentieth Century,”

of the faith,” making his continued stay at Deoband untenable.⁷² Sindhi’s view – for which he characteristically claimed Wali Allah’s support – falls short of affirming that different religious communities could all hope for salvation in the hereafter.⁷³ Nonetheless, resuming, in a land inhabited by an overwhelming Hindu majority, a medieval theological debate on the status of the unbeliever did carry some social and political implications for how his contemporary Muslims ought to relate to non-Muslims.

Sindhi goes further in some of his later works. In writings compiled toward the end of his life, he argues that members of different religious communities can be persuaded to come together in promoting “shared human interests” in terms of the teachings of their own scriptures: Hindus, Christians, and Muslims can all stand and collaborate on this common ground but do so in terms of their respective scriptural justifications.⁷⁴ The central idea he invokes here, again by way of Wali Allah but going back to early commentators on the work of the Andalusian mystic Ibn al-`Arabi (d. 1240), is that of the “unity of being” (*wahdat al-wujud*). This is a controversial doctrine that sees God as the only reality – a reality that, while ultimately transcendent, continually manifests itself in all creation.⁷⁵ While critics of this doctrine have long derided it for its pantheistic connotations, Sindhi takes *wahdat al-wujud* to mean that adherents of different faiths believe in different manifestations of what is ultimately the same reality and, as such, that they can

in Barbara D. Metcalf, ed., *Islam in South Asia in Practice* (Princeton: Princeton University Press, 2009), 236–8.

⁷² See Sindhi’s undated letter to Ahmad `Ali Lahori (ca. 1940) in Shahjahanpuri, ed., *Makatib*, 40. Also see “Statement of Maulvi Mazharuddin . . .” November 14–18, 1916, FO 686/149: 314. Sindhi’s mentor, Mahmud Hasan, did, however, concur with Sindhi’s view. See Gilani, *Ihata*, 167–9. For another account of Mahmud Hasan’s views, see Manazir Ahsan Gilani, *al-Din al-qayyim*, ed. Abu Salman Shahjahanpuri (Karachi: Maktaba-i as`adiyya, 2001), 191–4.

⁷³ In his undated (ca. 1940) letter to Ahmad `Ali Lahori, Sindhi invokes, inter alia, Wali Allah’s *al-Budur al-bazigha* in support of his position. See Shahjahanpuri, ed., *Makatib*, 40. For the passage to which he was presumably referring, see Shah Wali Allah, *al-Budur al-bazigha*, ed. Saghir Hasan Ma`sumi (Hyderabad: Shah Wali Allah Academy, 1970), 218–20.

⁷⁴ Sindhi, *Tahrir*, 162–3.

⁷⁵ See William Chittick, “Between the Yes and the No: Ibn al-`Arabi on *Wujud* and the Innate Capacity,” in Robert K. C. Forman, ed., *The Innate Capacity: Mysticism, Psychology, and Philosophy* (New York: Oxford University Press, 1998), 95–110, esp. 99: To Ibn `Arabi, “God is both transcendent and immanent . . . both ‘incomparable’ (*tanzih*) with all things and ‘similar’ (*tashbih*) to all things. The creative tension between these two perspectives – declaring God incomparable and seeing him as similar – is a constant theme of his writings.” On the doctrine of *wahdat al-wujud* as Sindhi invoked it, see Sarwar, *Mawlana `Ubayd Allah Sindhi*, 413–16, 429–32; also cf. *ibid.*, 41–9, 352–67, 417–32, and *passim*. For a defense of Sindhi’s ideas in this regard, see Akbarabadi, *Naqid*, 87–100. On Wali Allah’s understanding and defense of this doctrine, see J. M. S. Baljon, *Religion and Thought of Shah Wali Allah Dihlawi, 1703–1762* (Leiden: Brill, 1986), 56–63. Although often associated with Ibn al-`Arabi, it is worth noting that the phrase *wahdat al-wujud* did not originate with him but rather with some early commentators on his work. See Caner K. Dagli, “From Mysticism to Philosophy (and Back): An Ontological History of the School of the Oneness of Being,” PhD dissertation, Department of Near Eastern Studies, Princeton University, 2006. (I owe this last reference to Michael Cook.)

agree on moral norms rooted in a perception of that reality even as they arrive at them in terms of their own traditions.

The latter views were articulated at a time when the end of British colonial rule in India was in sight and there was vigorous debate on how the different religious communities were to order their relations in an independent India. Although Sindhi died before the creation, in 1947, of a separate Muslim homeland, which to many Muslims was the only way of securing their cultural and religious future, his position was in accord with those among the `ulama who were opposing rather than supporting the demand for Pakistan. Associated as many of them were with the Jam'iyyat al-`Ulama-i Hind, the Deobandi-led religiopolitical organization, and the Indian National Congress, these `ulama were opposed to the idea of Pakistan on grounds both that it would contravene the global unity of the Muslim community and, conversely, that Muslims in particular locales were free to think of themselves as part of a nation alongside the non-Muslims living there. Such justifications for their "nationalist" stance might seem paradoxical, though these scholars did not see any incompatibility between them.⁷⁶ Even among these `ulama, Sindhi's position is unusual, however, in basing part of the justification for a shared Indian nationhood on the mystical doctrine of *wahdat al-wujud*. To his mind, this doctrine makes it possible to have a distinct *Indian* identity of which the Hindu and the Islamic traditions are shared sources. By the same token, it allows for an *Indian Islamic* identity shaped by the peculiar historical experience of Islam in India. But if the various religious communities of India can eventually agree on certain shared norms, Muslims living in different Muslim societies, or Muslims and non-Muslims elsewhere, can also have an overlapping consensus of their own,⁷⁷ one that retains their local peculiarities yet finds enough common ground.

The values that would define this common ground are, however, to be drawn from the Qur'an,⁷⁸ which Sindhi regards as the most perfect source of eternal verities. He is highly critical of fellow `ulama for their failure to properly explain the Qur'an to people in the context of changed times (see [Chapter 5](#)) and believes, inter alia, that a shared grounding in the ethical teachings of the Qur'an can reduce the distance between Muslims of different intellectual formations. More ambitiously, his reading of *Wali Allah* led him to see the Qur'an's account of the teachings of the various prophets as an argument for the "intellectual unity" of their ideas.⁷⁹ If Sindhi's emphasis on the Qur'an's centrality as the ultimate basis of his

⁷⁶ For a discussion of their views, see Muhammad Qasim Zaman, *The Ulama in Contemporary Islam* (Princeton: Princeton University Press, 2002), 31–7; Metcalf, *Husain Ahmad Madani*.

⁷⁷ Sarwar, *Mawlana `Ubayd Allah Sindhi*, 421.

⁷⁸ Sindhi, *Falsafa*, 143–58.

⁷⁹ *Ibid.*, 96–7. The aforementioned Abu'l-Kalam Azad had also espoused the idea of the "oneness of religion." In his 1931 commentary on *al-Fatiha*, the opening chapter of the Qur'an, Azad had presented this idea as "the foundation of the message of the Qur'an." See Ian Henderson Douglas, *Abul Kalam Azad: An Intellectual and Religious Biography* (Delhi: Oxford University Press, 1988), 208ff (the quotations are from p. 209).

overlapping consensus would seem to dim any potential appeal of such consensus to those who are not Muslims,⁸⁰ many among the `ulama have remained equally suspicious of his ideas. Indeed, despite his credentials as a traditionally trained religious scholar who had studied with some highly revered scholars, the very novelty of his positions has continued to fuel efforts to marginalize him among the `ulama.

The most vociferous of Sindhi's many critics is Mas`ud `Alam Nadwi (d. 1954), a product of the aforementioned Nadwat al-`Ulama of Lucknow.⁸¹ Over the course of the past 100 years or so, graduates of the Nadwa have come to be associated with a broad assortment of trends and orientations, including Deoband, different shades of Salafism, and Islamism. Late in life, the aforementioned Sayyid Sulayman Nadwi would become a disciple of the influential Deobandi jurist and Sufi Ashraf `Ali Thanawi (d. 1943). For their part, Salafi trends had a receptive home at the Nadwa from an early stage as evidenced by the invitation to Rida. And a Moroccan Salafi associate of Rida named Taqi al-din al-Hilali was a much admired professor of Arabic literature at the Nadwa in the early 1930s.⁸² Such visitors reinforced the Nadwa's Arab orientation, as did the Arab press, which had an eager readership among the Nadwa's students. From 1932, the Nadwa had its own Arabic journal, *al-Diya*, with Mas`ud Nadwi as its first editor. The latter had pronounced Salafi leanings, although these were closer to the puritanical teachings of Muhammad b. `Abd al-Wahhab (d. 1791), the founder of the Wahhabi movement, in whose defense he wrote a book,⁸³ than they were to the likes of `Abduh and Rida.⁸⁴ After the establishment of Pakistan in 1947, Mas`ud Nadwi emigrated to Pakistan and spent his last years as an associate of the Jama`at-i Islami, the Islamist organization founded by Sayyid Abu'l-A`la Mawdudi (d. 1979) some years before the partition of India.

⁸⁰ The same is true of Azad's conception of the oneness of religion. Cf. Douglas, *Abul Kalam Azad*, 210f.

⁸¹ Mas`ud `Alam Nadwi's critique, titled "Mawlana `Ubayd Allah Sindhi par aik naqidana ja'iza," was published around the time of Sindhi's death, in 1944, in the noted Urdu journal *Ma`arif*. There is a detailed, point by point, rebuttal of Mas`ud Nadwi's critique in Akbarabadi, *Naqid*, where Mas`ud Nadwi's essay is also reproduced, pp. 261–91. My references to this essay are to this reprint. On Mas`ud `Alam Nadwi, see Abu'l-Hasan `Ali Nadwi, *Purane chiragh*, 2 vols. (Lucknow: Maktaba-i firdaws, 1975–80), 1: 317–57.

⁸² On him, see Lauzière, "The Evolution of the Salafiyya." Also Jamal Malik, "The Making of a Council: The Nadwat al-`Ulama," *Zeitschrift der deutschen morgenländischen Gesellschaft* 144 (1994): 82, 86, on the affinities between the Salafis of "the al-Manar group" and some of the founders of the Nadwa; idem, *Islamische Gelehrtenkultur in Nordindien: Entwicklungsgeschichte und Tendenzen am Beispiel von Lucknow* (Leiden: Brill, 1997), 218, 257ff., 285 n. 65, 453ff.

⁸³ Mas`ud `Alam Nadwi, *Muhammad ibn `Abd al-Wahhab: Aik mazlum awr badnam muslih* (Lahore: al-Hilal Publications, 1942). This work, first published in Urdu, has been translated and reprinted several times in both Arabic and English.

⁸⁴ He did, however, have considerable admiration for Rida, as well as for Amir Shakib Arslan. See his review essay on Arslan's biography of Rida: Mas`ud `Alam Nadwi, "Sirat-i Sayyid Rashid Rida," *Ma`arif* 42/5–6 (1938): 325–56, 412–41.

As the title of one of his books has it, Mas'ud Nadwi considered the aforementioned early nineteenth-century activist Sayyid Ahmad of Rai Bareilly to be the founder of "India's *first* Islamic movement." Unsurprisingly, he was deeply offended by Sindhi's criticism of that movement.⁸⁵ However, there was much else about Sindhi's views that Nadwi also found objectionable. This criticism, it should be noted, is not specifically about consensus and its authority. But the broad question that informs it is whether Sindhi had moved too far from where the boundaries of the religious tradition lie; and this, of course, is the question of consensus, on whose authority these opaque boundaries are guarded.

Mas'ud Nadwi accuses Sindhi of denying Islam's superiority over other faiths and of misconstruing the Qur'an in taking it as a platform for interreligious unity.⁸⁶ Further, he takes the idea that an *Indian* Islam was as valid an expression of the religious tradition as Islam anywhere else to signify its nationalization and, as such, a denial of its universality.⁸⁷ Consistent with this criticism, Nadwi is equally suspicious of Arab nationalism, a theme that has remained prominent in the work of many other graduates of the Nadwat al-'Ulama. To Sindhi, of course, an acknowledgment of the particular contexts in which a tradition evolves – say, in India – is the first step to finding an overlapping consensus on which different articulations of Islam and, indeed, different religious traditions might come together in particular locales in terms of their shared norms. To Mas'ud Nadwi, however, such a view seems to take too much away from the continuity and coherence of a global Islamic tradition.

Recognizing the particularity of context has other implications, too, and some of these are even more pernicious from the perspective of 'ulama like Mas'ud Nadwi. To Sindhi, there is much in traditional understandings of Islam and in its legal norms that is simply the result of the social and cultural contexts in which Islam has evolved. Such norms are not central to living a good Muslim life at other times and places, nor do they exhaust the variety of ways in which the core teachings of Islam could have expressed themselves.⁸⁸ Even punishments mandated in the Qur'an (*hudud*) – whose binding character would therefore seem to be subject to

⁸⁵ Mas'ud 'Alam Nadwi, *Hindustan ki pahli Islami tahrir* (Lahore: Idara-i matbu'at-i Sulaymani, 1979). For his rejoinder to Sindhi's criticism of this movement, see Mas'ud 'Alam Nadwi, "Shah Wali Allah awr unki siyasi tahrir: istidrak wa tanqih," in idem, *Mawlana Sindhi awr unke afkar wa khayalat par aik nazar* (Patna: Maktaba-i din wa danish, n.d.), 1–127.

⁸⁶ Mas'ud Nadwi in Akbarabadi, *Naqid*, 266–7.

⁸⁷ *Ibid.*, 271–2. Although he would have smarted at the suggestion, there is much in common between Mas'ud Nadwi's misgivings about the authenticity of an Indian Islam and British colonial views of it. As Lord Curzon, the viceroy of India, had observed in a speech in 1900, "a remarkable feature of the majority of Indian antiquities – of those at any rate that belong to the Musulman epoch – [is] that they . . . are exotics, imported into this country in the train of conquerors, who had learnt their architectural lessons in Persia, in Central Asia, in Arabia, in Afghanistan." Thomas Raleigh, ed., *Lord Curzon in India* (London: Macmillan and Co., 1906), 185; partially quoted in Thomas R. Metcalf, *Ideologies of the Raj* (Cambridge: Cambridge University Press, 1994), 152.

⁸⁸ Sindhi, *Tahrir*, 53.

little disagreement – need not be viewed as timeless laws but rather as intended, qua “practical examples,” for the original Arab society in which the religion had first taken root.⁸⁹ Wali Allah was understood by at least some scholars to have said something similar, and such ideas are scarcely quaint in modernist circles. From the perspective of many `ulama, however, they threaten to undo the very fabric of the Islamic legal and religious tradition.⁹⁰ Sulayman Nadwi had once remarked in a letter to Mas`ud Nadwi that “the interpretations offered by Shah Wali Allah are so delicate that only a thin line separates unbelief and Islam in them.”⁹¹ The context of this extraordinary observation indicates that Sulayman Nadwi’s concern was to criticize not Wali Allah but rather `Ubayd Allah Sindhi. Yet the remark obviously suggests considerable ambivalence toward the implications of some of Wali Allah’s positions, too, which no doubt became the more unpalatable when enunciated by his latter-day acolytes.

Mas`ud Nadwi is equally perturbed by Sindhi’s resolute focus on the *worldly* concerns of Islam, to the detriment of matters relating to faith and piety. As he sees it, the “most dangerous” aspect of Sindhi’s interpretation of Wali Allah’s teachings and that of his successors is the single-minded focus on their politics: “it is as if matters of religion and faith were merely the casing of a lantern rather than the flame within.”⁹² Significantly, this sort of political approach toward understanding Islam is characteristic of the Islamists, and the `ulama have sometimes castigated Mawdudi on precisely this score.⁹³ It is not a little ironic that, despite his criticism of Sindhi, Mas`ud Nadwi should have spent his last years with none other than Mawdudi’s Islamist organization, the Jama`at-i Islami.

Allegations to the contrary notwithstanding, Sindhi does not seek a radical break with the Islamic tradition. On the contrary, he sees the loss of continuity with the Islamic past as precisely the reason for the “chaos” (*intishar*) in the collective life of the Indian – and presumably other – Muslims.⁹⁴ Yet his is a far more independent view of the tradition than many of his peers among the `ulama have been comfortable with. To him, reestablishing a vital link with the tradition is predicated on a thoroughgoing critique that separates what is valid in this tradition from the invalid, even as what is deemed to have validity is itself adjusted to changing needs.⁹⁵ Many among the other `ulama not only prefer to insist that the continuity

⁸⁹ Sarwar, *Ifadat wa mulfuzat*, 284–5, 124–5; cf. *ibid.*, 100f. Also see Sindhi’s preface to Muhammad Ajmal Khan, *Tartib-i nuzul-i Qur’an*, reprinted in Shahjahanpuri, *Makatab*, 135–7.

⁹⁰ Mas`ud Nadwi in Akbarabadi, *Naqid*, 266–7, 275–7.

⁹¹ Sulayman Nadwi to Mas`ud `Alam Nadwi (April 1, 1945), in Mas`ud `Alam Nadwi, ed., *Makatab-i Sayyid Sulayman Nadwi* (Lahore: Maktaba-i chiragh-i rah, 1954), 179.

⁹² Mas`ud Nadwi, “Istidrak wa tanqih,” in *idem*, *Mawlana Sindhi awr unke afkar*, 126–7. A similar point is made by Sulayman Nadwi in his introduction to this volume: see *ibid.*, 18–19 (independent pagination).

⁹³ See Muhammad Qasim Zaman, *Ashraf `Ali Thanawi: Islam in Modern South Asia* (Oxford: Oneworld, 2008), 117–18.

⁹⁴ Sarwar, *Mawlana `Ubayd Allah Sindhi*, 422–5.

⁹⁵ *Ibid.*, 426–7.

in question has never been seriously compromised, but they also fear that any radical critique would finally entail precisely the sort of discontinuity that Sindhi himself laments. Sindhi, of course, wanted to reconfigure the Islamic tradition so that it is fully at home in both its Indian and its modern environments and as such becomes part, even the basis, of an overlapping consensus among members of different faiths, in India and beyond.⁹⁶ This vision is unsettling to many `ulama not because it is either utopian or mystical, but rather because it seems to require too radical a reorientation of Islam as they have usually understood it. It is also distasteful, as Mas`ud Nadwi's critique makes clear, because its cosmopolitanism is, in the first instance at least, Indian rather than Islamic.⁹⁷

A further irony in Mas`ud `Alam Nadwi's critique of Sindhi should be noted here. Nadwi's Salafi and Islamist leanings give him, too, a more independent view of the Islamic scholarly tradition than would be endorsed by many of his Indian contemporaries. And as one would expect of a Salafi, he was opposed to the taqlid of any particular Sunni school of law;⁹⁸ Sindhi, by contrast, was willing to countenance taqlid on utilitarian grounds. Where Nadwi was nonetheless in accord with most other Indian `ulama of his time was in denying the legitimacy of efforts to distinguish between the spirit or ethical philosophy of the Qur'an (*hikmat-i Qur'ani*) and the norms of the shari`a, as Muslims have historically understood them.⁹⁹ The cost of any search for shared, universal truths, any demonstration of the "flexibility" of Islam,¹⁰⁰ was much too high if it flouted what Mas`ud Nadwi saw as the agreed upon principles and practices of the shari`a. By any reckoning, the disagreements between Sindhi and Nadwi were not insignificant. And yet the boundaries between them were not quite as neatly delineated as Nadwi's critique would seem to suggest.

OLD CONSENSUS IN A NEW GARB?

If `Ubayd Allah Sindhi's project of devising an overlapping consensus among members of different faiths, in India and beyond, has attracted more misgiving than sympathy, it is easier to find concerns similar to his in the concomitant search for an overlapping consensus *within* the Muslim community. At the turn of the twenty-first century, no one typified this search more fully, together with the effort to define the minimum criteria for it, than Yusuf al-Qaradawi.

"Immunity from error," Qaradawi writes, "has not been guaranteed to any individual within the community, no matter who that might be, but rather to the community as a whole." He continues:

⁹⁶ Ibid., 431–2.

⁹⁷ Mas`ud Nadwi in Akbarabadi, *Naqid*, 266–85, esp. 274f.

⁹⁸ Abu'l-Hasan `Ali Nadwi, *Purane chiragh*, 1: 345.

⁹⁹ Mas`ud Nadwi in Akbarabadi, *Naqid*, 267.

¹⁰⁰ Cf. *ibid.*, 277.

The beliefs, basic principles and understandings, and the fundamental laws on which the community has agreed with a definitive consensus and which each generation has received from its predecessor as a lived and certain reality are what represent the “constants of the community” (*thawabit al-umma*) in its belief, thought, and practice. These are what embody the unity of the community... and they protect it from dissolving into other groups and communities... [Such consensus] is the “forbidden zone” (*al-mintaqa al-mughlaqa*) of the community’s heritage, where no development, renovation or *ijtihad* is to be countenanced. This is a highly limited zone, and yet a very important one. Without it, the community would be ruined, its identity stripped from its skin and lost.¹⁰¹

There are those, Qaradawi says, who consider the entire Islamic tradition (*al-turath*) to be sacrosanct and therefore “beyond any critique or questioning.” Others want to jettison the tradition altogether, “to start afresh, like those who have neither a civilization nor a history.” As in so many other respects, Qaradawi sees the correct path as lying between these two extremes. In this instance, his much vaunted “centrism” – of which we will see many examples in the following chapters – signifies making a distinction between the divine revelation, which is indeed beyond critique and questioning, and the historically contingent Islamic tradition, which is not.¹⁰² Even the divine revelation is not always unambiguous and thus not uniformly binding, he says. Much of it is, in fact, subject to interpretation, which, in turn, generates disagreement among scholars. The constants of the community, then, are not just any matters that are to be found in the foundational texts but specifically those among them that are “conclusively established” (*qat`i al-dalala*) by these foundational sources. A list of such things would include the obligatoriness of prayer, fasting, zakat, and hajj, as well as the prohibition of adultery, financial interest, and wine. This is not a long list, he says,¹⁰³ which means that it does not take much to find the common ground on which the Muslim community as a whole can stand.

At the same time, Qaradawi argues that Muslims actually agree on much more, beyond the constants of the community, than they have usually recognized, and he urges Muslim scholars and preachers to enlarge the sphere of this agreement. Among his signature concerns is to see Muslims transcend particular differences to forge a united front against the common – non-Muslim – foes. For the latter, despite their particular differences, are united in their opposition to Islam.¹⁰⁴ Even those who might otherwise be regarded as “wayward innovators” (*al-mubtadi`in wa`l-munharifin*) can be allied with other Muslims on a shared platform and “on the basis of the fundamentals of the faith and the worldly interests that we share

¹⁰¹ Qaradawi, *Turath*, 43–4.

¹⁰² *Ibid.*, 44.

¹⁰³ Yusuf al-Qaradawi, *Fatawa mu`asira*, 3 vols. (Beirut: al-Maktab al-Islami, 2000–3), 2: 141–51, especially 146, 150.

¹⁰⁴ Qaradawi, *Turath*, 181–2.

[with them].”¹⁰⁵ The “golden rule” here, which he invokes on the authority of Rashid Rida, is that “we cooperate [with fellow Muslims] on the basis of what we are agreed on and we exercise forbearance where we disagree.”¹⁰⁶ Although Qaradawi does not put it this way, he sees this forbearance as not only principled but also strategic. One of his examples of the recourse to this strategic forbearance is the willingness of the great medieval theologian al-Ghazali (d. 1111) to muster all intellectual resources, no matter how unsavory their provenance, in combating the philosophers. This meant criticizing the philosophers from, say, the perspective of the rationalist Mu`tazili theologians despite Ghazali’s own disagreements with the Mu`tazila. For, as Ghazali had put it, disagreements with such theologians concerned matters of “detail” (*al-tafsil*), which should not impede the making of a common cause, whereas disagreements with the philosophers were on the very fundamentals of the faith.¹⁰⁷ Qaradawi aspires, then, to base an intra-Muslim unity on a minimalist consensus – minimalist both in the sense that it is only on the constants of the faith that everyone is presumed to be agreed *and* in the sense that those who do not agree on even such fundamentals can be thought to be united in the effort to harm those who do. However, he seeks equally to have Muslims heighten and deepen the awareness of what they do share and to extend its scope.

The most ambitious of Qaradawi’s many efforts toward bringing together variegated Muslim voices on a shared platform is represented by the International Union of Muslim Scholars (*al-Ittihad al-`alami li-`ulama al-muslimin*, hereafter frequently referred to as the `Ulama Union), an organization he helped found in 2004 with its secretariat in London, and since early 2008, in Cairo. Qaradawi has tended to see the global War on Terror in the aftermath of September 11, 2001 as a thinly disguised attack on Islam. His frequently voiced concern with the defense of Muslim identity by way of a new consensus has acquired a new urgency in this context. The `Ulama Union embodies this sense of urgency. As its constitution puts it, this organization seeks

to combat destructive trends and calls hostile to Islam, as well as cultural threats, both internal and external, by disseminating centrist Islamic thought . . . ; to strengthen the Islamic spirit, in the life of both the individual and the community . . . ; and to consolidate the strengths of the community, with its different schools of law and its varied orientations, as well as to streamline the efforts of the `ulama and their intellectual standpoints vis-à-vis the major issues facing the community, so that these challenges can be confronted in unison.¹⁰⁸

¹⁰⁵ Ibid., 182.

¹⁰⁶ Ibid., 177; idem, *Fatawa mu`asira*, 2: 141–51; idem, *Ibn al-qarya*, 3: 39.

¹⁰⁷ Qaradawi, *Turath*, 184, citing Ghazali’s Third Introduction to his *Tahafut al-falasifa*. For this passage, see Abu Hamid al-Ghazali, *The Incoherence of the Philosophers*, trans. Michael E. Marmura (Provo: Brigham Young University, 2000), 7–8 (paragraph 22). My understanding of this passage differs somewhat from Marmura’s rendering of it.

¹⁰⁸ “al-Nizam al-asasi lil-ittihad al-`alami li-`ulama al-muslimin,” <http://www.iumsonline.net/articles/info/article02.shtml> (accessed March 31, 2009).

Yet, alongside such rhetoric, Qaradawi has often argued that what is crucial for a robust Muslim identity is not any artificial erasure of difference, but rather learning to distinguish between good and bad disagreement in order to be able to live with tolerable forms of disagreement.¹⁰⁹ Following Ibn Taymiyya, Qaradawi distinguishes between disagreement that expresses itself as “variety” (*ikhtilaf al-tanawwu`*) and that which amounts to “opposition” or “contradiction” (*ikhtilaf al-tadadd*). The former is not merely acceptable but welcome; the latter is forbidden.¹¹⁰ Besides the disagreements of the jurists, a long-recognized area of Islamic law, those that constitute variety in Qaradawi’s enumeration would be hard to consider momentous – for example, the differences in ritual practice or in variant readings of the Qur’anic text, which seldom amount to significant discrepancies.¹¹¹ Somewhat more daringly, and in contrast with the stricter Salafis, Qaradawi is willing to tolerate certain differences in matters of belief as long as they do not contravene key theological tenets.¹¹² Even so, his general claims about the tolerability of difference are considerably more expansive than his examples themselves suggest:

Great civilizations are those that make room for variety in their midst. . . . For instance, the civilization of Islam, in the days of its flowering, accommodated religions and cultures within it, as well as different peoples, nations and races. Its slogans were “tolerance for all” and “deriving benefit from everyone.” Consequently, many different religions and customs participated in its formation and preservation; and they lived therein as honored [inhabitants].¹¹³

Leaving aside the question of whether this is an accurate picture of medieval Islamic societies, Qaradawi takes it for granted that good Muslims are in agreement in their overall orientation.¹¹⁴ The disagreement that he lauds often turns out, as will be seen in the following chapters, to obtain largely among otherwise like-minded people, rather than among those committed to significantly divergent epistemological assumptions. Put differently, if the very commitment of a person to the constants of the faith is not to be doubted, then the only kind of disagreement that can be

¹⁰⁹ Similar views are expressed in the Charter of the International Union of Muslim Scholars: “al-Mithaq al-Islami lil-ittihad al-`alami li-`ulam al-muslimin,” <http://www.iumsonline.net> (accessed October 25, 2007), 20.

¹¹⁰ Qaradawi, *Turath*, 210–15, citing Ibn Taymiyya, *Iqtida al-sirat al-mustaqim mukhalifat ashab al-jahim*, ed. Muhammad Hamid al-Fiqi (Cairo: Matba`at al-sunna al-Muhammadiyya, n.d.), 35ff. (the edition I use here is different from the one cited by Qaradawi). Also cf. Rida, *Tafsir al-manar*, 5: 182, on the bad kind of *ikhtilaf*, one that consists of, or leads to, dissension (*ikhtilaf al-tafarruq*); and Abu’l-Kalam Azad, *Mas’ala-i khilafat*, 22, which traces the origins of *ikhtilaf al-tadadd*, on top of *ikhtilaf al-tanawwu`*, to the end of the Rashidun caliphate.

¹¹¹ Qaradawi, *Turath*, 211–12, following Ibn Taymiyya, *Iqtida*, 37–8.

¹¹² Qaradawi, *Turath*, 142. His examples of such tolerable disagreement include the question of whether the Prophet Muhammad would be permitted by God to intercede for his community on the Day of Judgment and whether those rewarded with paradise will be blessed with the vision of God – both contested matters in Islamic theology.

¹¹³ *Ibid.*, 211.

¹¹⁴ Cf. *ibid.*, 213–15.

imagined is one that concerns the particular manner in which he or she chooses to express that shared commitment.¹¹⁵

The tension between celebrating diversity and forging consensus (under threat of exclusion from the community of the righteous) runs through a good deal of Qaradawi's thought and his organizational ventures. But there are other tensions as well. Among the most important of these is one that relates to his minimalist view of consensus.

This minimalist view asserts, of course, that things not sanctified by an authoritative consensus are subject to review and change, that the community ought to be liberated from its excess baggage to keep pace with the times. Not unlike his celebration of diversity, this is powerful rhetoric and it has done much to enhance Qaradawi's appeal in Muslim circles in and outside the Arab world. Yet, as might be expected from what has been said earlier, there is some disjunction between such rhetoric and Qaradawi's deep attachment to the Islamic legal tradition. Even as he envisions restricting the authority of *ijma`* to the constants of the faith, many of his own positions are often in line with long-established and far-from-minimalist ways of thinking about the tradition. That "the *content* of the message is stable, while the means for disseminating it vary"¹¹⁶ indicates as much. No less instructive in this regard is his sharp criticism of "those who call for renovation and development, seeking [thereby] to change Islam itself to accord with their own whims."¹¹⁷ Such people think of Islamic substantive law (*fiqh*), he says, merely as expressing a

point of view, [that is,] as representing the opinion of a particular individual in a certain milieu at a particular time, so that when the time changes . . . it becomes incumbent to create new laws. . . . While this is indeed the case so far as the particulars of a jurist's *ijtihad* are concerned, it is not so as regards the totality of the law. The latter represents the vast juristic riches in whose creation and development towering Muslim intellects have participated . . .¹¹⁸

Such formulations suggest a much more expansive view of Islam – of Islam as a scholarly and especially as a juristic tradition – than is immediately apparent in Qaradawi's seemingly minimalist insistence on the nonnegotiable "constants." The point is not that Qaradawi's expansive view of Islam makes it resistant to change. It need not do so. The point is rather that taking a restrictive view of consensus does not, for Qaradawi, necessarily entail a challenge to its substantive content. Put differently, to radically curtail the scope of consensus itself poses less of a problem

¹¹⁵ *Ibid.*, 213–15. Cf. Michael Cook, *Forbidding Wrong in Islam* (Cambridge: Cambridge University Press, 2003), 114–15, for similar observations, although not with reference to Qaradawi.

¹¹⁶ Qaradawi, *Turath*, 147. Emphasis added.

¹¹⁷ Yusuf al-Qaradawi, *Malamih al-mujtama` al-muslim alladhi nunshiduh* (Beirut: Mu'assasat al-risala, 1996), 198.

¹¹⁸ *Ibid.*, 198–9.

for fellow `ulama if many of the views one then goes on to endorse continue to lie within the parameters of the scholarly consensus.¹¹⁹

Conversely, a substantive challenge to consensus is certain to call forth a fierce response even in the absence of any formal rejection of the principle of consensus as a source of norms. Consider the furor an Azhar scholar of an earlier generation raised with a book he had published in 1925 on the “principles of governance in Islam.” This scholar, `Ali `Abd al-Raziq (d. 1966), had argued that, contrary to a long-held belief, the institution of the caliphate had no religious sanction, that it had all along been a coercive political institution, and that it could therefore be easily, and indeed appropriately, replaced by some other political office that might actually serve the interests of the people better than the caliphate usually had.¹²⁰ Given that the institution of the caliphate was typically recognized in medieval juristic and theological works to rest not on any explicit textual basis in the Qur’an or the sunna but rather on consensus – that is, on the agreement of the community and of its scholars that it *is* a religiously mandated office – `Abd al-Raziq’s argument, although not presented as an attack on the authority of consensus as such, was nothing short of that.¹²¹ The price he paid for this challenge was severe condemnation and ostracism by the leading `ulama of the Azhar.

What the case of `Ali `Abd al-Raziq helps us see is the paradox that the `ulama have been able to sometimes seriously question and limit consensus as a source of legal norms with much more success than they have the actual substance of what is supposed to derive from this source.¹²² That critiques and redefinitions of consensus might be treated with greater forbearance when the substance of

¹¹⁹ Cf. H. A. R. Gibb, *Modern Trends in Islam* (Chicago: University of Chicago Press, 1947), 13: “[I]t is a significant fact that the only claimants to *ijtihād* whose claims have been supported by some measure of consensus have been those who rejected certain of the beliefs or practices sanctioned by *ijma`*, not in order to modernize the doctrines of Islam, but in order to return to the practice of the primitive community.” As would be noticed, Gibb’s suggestion here is different from mine. I am not arguing that *ijtihād* becomes more palatable when done in the name of “the primitive community,” but that it is the substance of consensus, rather than its long recognized status as an authoritative source, that has tended to primarily matter to `ulama like Qaradawi.

¹²⁰ `Ali `Abd al-Raziq, *al-Islam wa usul al-hukm* (Cairo: Shirkat musahama misriyya, 1925). On this work and the controversy it aroused, see Hourani, *Arabic Thought*, 183–92.

¹²¹ Cf. Qaradawi, *Ibn al-qarya*, 1: 422. `Abd al-Raziq is also the author of a book specifically on the juristic doctrine of consensus: *al-Ijma` fi’l-shari`a al-Islamiyya* (Cairo: Dar al-fikr al-`Arabi, n.d. [1947]). Remarkably, however, for a scholar whose earlier work had created such controversy precisely by its challenge to the authority of consensus, this book is a straightforward, unobjectionable account of the major, mostly medieval, juristic debates on consensus. It was simply meant, as `Abd al-Raziq says in his preface, to assist students of Islamic law at Egypt’s Fu’ad I University by making his lecture notes available to them.

¹²² J. J. G. Jansen notices something similar with reference to Mahmud Shaltut, who had limited the sources of Islamic law to the Qur’an, the Sunna, and *ijtihād*. But, as Jansen notes, “Shaltut’s views on the sources of Islamic law, and his insistence on the legitimacy of *ijtihād*, . . . bring him seldom, if ever, in conflict with the traditional terms, regulations and precepts of Islamic law, as is shown by his orthoprax fatwas . . . and his other articles. This carefulness on his part earned for him the praise of many contemporaries . . .” J. J. G. Jansen, *The Interpretation of the Koran in Modern Egypt* (Leiden: E. J. Brill, 1974), 90.

consensus is being readmitted to the mainstream of religious discourse is equally illustrated by Qaradawi's view of the `ulama, as compared to that of Sindhi. Sindhi writes as a Deobandi `alim, yet, as we have observed, he is highly critical of his fellow `ulama, of their institutions, and of what he takes to be the inadequacies of the tradition as they understand it. His fate was to be the target of repeated, albeit not entirely successful, efforts at marginalization. Qaradawi, on the other hand, writes for an audience that is imagined to comprise Islamists, modernists, as well as lay Muslims; but he does so in a way that frequently reinforces rather than undermines the authority of the Islamic tradition and of the fellow `ulama who claim to represent it.¹²³

Yet there *are* instances in which Qaradawi clearly departs from certain dominant strands in Sunni juridical discourse. By far the most important illustration of this is his recent effort to rethink the doctrine of jihad. I will examine some of the contents of his *Jurisprudence of Jihad* in Chapter 8, but one aspect of his argument is worth mentioning here. Following a long juridical tradition, Qaradawi makes a distinction between “defensive jihad” (*jihad al-daf*) – for example when Muslim lands are invaded or occupied and Muslim life, property, and honor are threatened – and “jihad of choice” (*jihad al-talab*), when Muslims take the initiative in attacking the enemy in pursuit of various non-urgent religious and strategic goals.¹²⁴ Qaradawi notes that many jurists have seen the jihad of choice as a *fard kifaya*, that is, as an obligation that must be fulfilled by some people on behalf of the community as a whole or else the entire community is deemed to be negligent. Indeed, he acknowledges that the generality (*jumhur*) of the early jurists who had lived on the frontiers of the Muslim state had held this view. But he insists, against his detractors, that there is no consensus on the idea that the jihad of choice is, in fact, a *fard kifaya*. “The dominant juristic view (*qawl al-jumhur*) in itself is not a binding authority,” he says. “The authority (*hujja*) lies, rather, in the definitive text [from the foundational sources] and in an indisputable consensus, and neither is to be found [in this instance].”¹²⁵ In support of his own view, viz. that a jihad of choice is not a binding requirement on Muslims, Qaradawi adduces a number of works, most notably a recently published treatise of Ibn Taymiyya.¹²⁶ Such works help deflate the argument from consensus, but they also help refute – given Ibn Taymiyya's stature in Islamist and Salafi circles – the biting charge that

¹²³ On Qaradawi's reinforcement of the authority of the contemporary `ulama, see Armando Salvatore, *Islam and the Political Discourse of Modernity* (Reading: Ithaca Press, 1997), 202–4. Examples of this will be seen, together with attendant ambiguities, in later chapters.

¹²⁴ Qaradawi, *Fiqh al-jihad*, 1: 54–5. Two new editions of this book have been published so far, with the third edition (2010) containing some new material. (I thank Usaama al-A'zami for sharing his copy of the third edition with me.) Unless otherwise noted, my references are to the first edition.

¹²⁵ *Ibid.*, 1: 386.

¹²⁶ Ibn Taymiyya, *Qa`ida mukhtasara fi qital al-kuffar wa muhadanatihim wa tahrim qatlihim li-mujarrad kufrihim*, ed. `Abd al-`Aziz b. `Abd Allah b. Ibrahim Al Hamad (Riyadh, 2004); Qaradawi, *Fiqh al-jihad*, 1: 376ff. The editor of this treatise by Ibn Taymiyya was the chief qadi of Qatar.

those arguing for the nonobligatory character of a jihad of choice are doing so because they are kowtowing to the West.¹²⁷

Qaradawi's argument, then, is not that an earlier consensus is irrelevant to the position he is advocating or that each generation can try to evolve its own consensus – views that both Rashid Rida and Sindhi had held – but rather that there is *no* consensus on the obligatoriness of a jihad of choice. More broadly, as he puts it, “there is no dearth of *claims* to consensus on questions on which ongoing disagreement is actually a proven fact.”¹²⁸ In case of the jihad of choice, a minimalist view of consensus does, in fact, allow him to sidestep influential earlier positions. In many other instances, it sits uncomfortably, if incongruously, ensconced within an expansive view of the tradition.



TWO OBSERVATIONS ARE IN ORDER TO CONCLUDE THIS BROAD OVERVIEW. First, there is a shared concern in the discourses we have examined here to limit the scope of consensus in some ways and to broaden it in others. The former maneuver entails a rejection of the idea that there necessarily is a consensus on all matters that are claimed by some to be covered by its authority or that it is binding in the way that unambiguous teachings of the foundational texts are. The latter move consists in enlarging the ranks of those whose voices ought to count in the making of consensus, in extending the reach of (new) consensus to contemporary problems and, not least, in taking consensus beyond the realm of the narrowly legal. These twin steps represent, in effect, a recognition, by the internal critics, of what Dale Eickelman and James Piscatori have characterized as the “fragmentation of authority.” Where the `ulama once saw themselves as the primary locus of religious authority in Islam, their claims to providing authoritative guidance have come to be increasingly contested by the “new religious intellectuals.”¹²⁹ The question is not whether this phenomenon has occurred but whether the `ulama recognize it. Unlike many of their peers,¹³⁰ the internal critics whose work we have briefly reviewed here arguably do so. Indeed, they may be said to have a stake not merely in acknowledging this fragmentation but also, at least in some ways, in speeding it along. They do remain committed to the `ulama's authority. Yet a certain fragmenting of that authority also provides them the opportunity, and the

¹²⁷ Qaradawi, *Fiqh al-jihad*, 1: 387.

¹²⁸ *Ibid.*, 386.

¹²⁹ On the “new religious intellectuals” and the “fragmentation” of religious authority of which they are a product, see Dale F. Eickelman and James Piscatori, *Muslim Politics* (Princeton: Princeton University Press, 1996).

¹³⁰ For instance, see Sami` al-Haqq, “Mutajaddidin awr munkirin-i hadith ka jahilana tasawwur-i sunnat,” in *idem*, *Islam awr `asr-i hadir* (Akora Khattak: Mu'tamar al-musannifin, 1976), 315–20, esp. 318. Also cf. Kemal A. Faruki, *Ijma and the Gate of Ijtihad* (Karachi: Gateway Publications, 1954), 11–12 (quoting Mufti Muhammad Shafi`, a leading Deobandi scholar of late colonial India and Pakistan).

space, in which to try to reshape Islam and to enlarge the numbers of those who might be able to contribute to such processes.

The second thing to observe in light of the reformist discourses on consensus is an important paradox that characterizes them. If, as we have seen, trying to unsettle existing forms of consensus handed down from a hallowed past allows the reformist `ulama to open the arena to new voices and ideas, it is also the case that what is substituted for the old often does not carry the latter's authority. This "authority deficit" can have several consequences.¹³¹ For instance, as seen with Qaradawi, it can result in a scholar's reaffirming the scholarly tradition in ways one would not have expected in view of his minimalist conception of consensus. It can also result in strained efforts, of which examples will be encountered later, to muster support from the very tradition one is critiquing (see [Chapter 8](#)). Likewise, it can have the effect of returning for support to some of the same contemporary scholars one might have wished to do without. In an Arabic work he wrote during the early years of his exile in Mecca, Sindhi observes that it is necessary for the people of a region to maintain a shared "disposition" (*al-saliqa*) and that the best way to do this is by following the dictates of the Muslim ruler or an association of Muslim scholars. (Ibn Sa`ud, who had appointed Sindhi to teach in the Sacred Mosque in Mecca in 1929, would not have disliked hearing this view.) Sindhi continues:

As for a Muslim region occupied by unbelievers, it is obligatory for those who are unable to emigrate to appoint an imam to whom they can turn for education and legal guidance ["for fatwas"] . . . Our teachers, who established the Deoband madrasa near Delhi as well as its branches in different parts of India, had the fulfillment of this obligation as their goal. God blessed them in this work, and legions of students have graduated from these [madrasas] with a single disposition, characterized by the teachings of Wali Allah and the Hanafi school . . .¹³²

Leaving some of its hyperbolic claims aside, this statement is remarkable for envisaging Deoband – many of whose `ulama scarcely saw eye to eye with Sindhi – as a stand-in for the imam and as the locus of preeminent religious authority in colonial India.¹³³ Sindhi was probably thinking here of his mentor, Mahmud Hasan, who is still commonly remembered in Deobandi circles as the *Shaykh al-Hind* – "the pre-eminent scholar of India." He might also have responded that what he had

¹³¹ I borrow this phrase from *The Economist* (London), June 28, 2007: "Islam's Authority Deficit."

¹³² Sindhi, *al-Tamhid*, 363–4. Portions of this work were written at different times, but a substantial portion is dated 1929, the year of his appointment in Mecca. For the date, see *ibid.*, 393.

¹³³ In his statement to colonial authorities following his arrest in Mecca for complicity in the Silk Letter Case, Husayn Ahmad Madani had said as much: "Obeidullah had great dreams for making Deoband the centre of Moslem thought and influence. I was against his grandiose scheme pointing out that there were no funds to carry them out." FO 686/149: 207 (statement dated January 20, 1917). The Jam'iyyat al-Ansar, the madrasa's putative old boys' association, was a key platform for this planned projection of Deoband's influence. Significantly, prominent Deobandis such as Anwarshah Kashmiri and Ashraf `Ali Thanawi were part of the effort to raise funds for this association (see "Statement of Maulvi Mazharuddin . . ." FO 686/149: 311).

in mind was the *right kind* of Deobandi `ulama.¹³⁴ The fact remains, however, that it is Deoband's authority he affirms here, rather than that of a particular faction in it.

In view of such potential compromises, there lurks the danger, as Fazlur Rahman would have put it, of challenges to consensus falling prey to the community's "tremendous digestive power." Nonetheless, the world in which the internal critics have sought to challenge and to rethink the earlier certainties of consensus – even when the rhetoric of such rethinking has gotten the better of its actual practice – is very different from the one in which it was once considered blasphemous to question certain kinds of consensus.¹³⁵ In this modern world, the challenges to consensus are likely to be more enduring than they may have been earlier. At the same time, however, the challenge of *forging* authoritative consensus in this fragmented world may also be far greater than ever before.

¹³⁴ Cf. Sindhi, *Tamhid*, 84–6, where, unlike in the statement quoted, he does make a distinction among various Deobandis.

¹³⁵ See `Abd al-`Ali Muhammad b. Nizam al-din al-Ansari, *Fawatih al-rahamut*, published together with Ghazali, *al-Mustasfa*, 2: 243–6.



The Language of Ijtihad

FEW TERMS HAVE BEEN INVOKED MORE OFTEN IN MODERN intra-Muslim debates than *ijtihād*. Modernist intellectuals have frequently invited their coreligionists to rethink their dogmatic certainties in terms of *ijtihād*; and the Muslim governing elite have no less frequently justified their legislative and judicial measures as forms of *ijtihād*. Since the late nineteenth century, as observed earlier, many Muslims have come to explicitly reject the authority of the medieval schools of law in favor of unmediated recourse to the Islamic foundational texts – the Qurʾān and the teachings of the Prophet Muhammad – as well as the practice of the earliest generations of Muslim forbears (the *salaf*). *Ijtihād* has had an important place in this reconfigured terrain. Many Sunni Islamists have a more ambivalent attitude toward *ijtihād*, although appeals to it continue to form part of their critique of the *ʿulama* as well.

Against the overlapping challenges of the Salafis and the Islamists, modernist Muslims and modernizing governments, many among the Sunni *ʿulama* of modern times, especially in South Asia, have often expressed grave misgivings about *ijtihād*. Their discomfort has rested, *inter alia*, on the conviction that the scholarly tradition is not only a repertoire of authoritative norms but also of agreed-upon methods for interpreting the foundational texts. Any willingness to set aside these time-honored methods immediately raises the specter of willfully subordinating God’s word to ill-informed guesswork, which serves only to pave the way toward interpretive anarchy.¹ Yet, caricatures apart, many among the *ʿulama*, too, have come to adopt the language of *ijtihād* – that is, to affirm that it is not just possible but often necessary to undertake *ijtihād* in meeting particular challenges.

Writing with reference to the Arab Middle East nearly half a century ago, Joseph Schacht had observed that

nowadays a position has been reached in which many Islamic scholars of a traditional background, without necessarily sharing all the opinions of the Modernists, recognize their effort as legitimate and act, in a way, as their advisers; the uncompromising

¹ For illustrations of the *ʿulama*’s suspicion of *ijtihād*, see Ashraf ʿAlī Thanawī, *al-Iqtisād fi’l-taqlīd wa’l-ijtihād* (Lahore: Idara-i Islamiyyat, 1985); Muhammad Tayyib, *Ijtihād awr taqlīd* (Lahore: Idara-i Islamiyyat, 1978); Muhammad Taqī ʿUthmānī, *Taqlīd ki sharʿi haythiyyat* (Karachi: Maktaba-i Dar al-ʿUlum, 1993).

demand of *taqlid*, the unquestioning acceptance of the traditional doctrine of one school of law, in particular, has lost much ground.²

Yet, Schacht had also noted that the degree to which *ijtihād* has come to be accepted by the traditionally educated scholars varied from one region to another, with South Asian *ʿulama* being considerably less open to it than their peers in the Arab Middle East.³

Although Schacht's assessment of the South Asian *ʿulama* was not incorrect in broad terms, their discourses pointed even then to considerably greater complexity on the question of *ijtihād* than is captured in his summary characterization. My interest here is not in taking issue with Schacht's appraisal of either the Arab Middle East or South Asia, however, but rather in providing some illustrations of the evolving views of *ijtihād* throughout the twentieth century and of the institutions and practices relating to it. In particular, I wish to explore how debates on *ijtihād* have been shaped by intellectual exchange between South Asia and the Middle East, how the emergence of institutional loci of *ijtihād* may have facilitated a much greater acceptance of the idea of *ijtihād* than had been the case earlier in many circles, and how the language of *ijtihād* has come to increasingly dislodge strict fidelity to the established school of law as a way of articulating claims to religious authority. An exploration of these questions can shed some fresh light, I think, on the modern career of a key idea in Islamic thought and of its place in internal Islamic criticism.

SALAFIS AND DEOBANDI TRADITIONALISTS: AN EARLY ENCOUNTER

In his generation, Muhammad Rashid Rida was among the most ardent advocates of *ijtihād*, which he understood to mean "the articulation of new legal norms on matters not settled by definitively known indicants in the [foundational] texts."

² Joseph Schacht, *An Introduction to Islamic Law* (Oxford: Clarendon Press, 1964), 102.

³ *Ibid.*, 104–5. For a brief discussion of Schacht in this context, to which I am indebted here, see Fareeha Khan, "Applying Shari'ah as a Religious Minority in Colonial India: Ashraf 'Ali Thanawi's Fatwa on Women's Right to Divorce," PhD dissertation, University of Michigan, 2008, 35–8. Rashid Rida had already expressed a somewhat similar view, noting that the strife resulting from juridical disagreements among rival schools had "diminished considerably in this age in most lands, owing to the weakening of the reasons behind it," but that it continued to rage in other places. One of his examples of the latter relates to the stringency of *taqlid* by the Afghans. See Rida, "Kalima fi fawa'id *Kitāb al-mughni*," in *al-Mughni li-Ibn Qudama*, 1: 18, 20; the quote is from p. 18. Rida's observations here should not be taken at face value, however; his life-long and bitter struggle against the regimen of *taqlid* would have been quite unnecessary if it had already lost ground in most places. They may rather represent an effort to persuade the recently installed Saudis, under whose patronage he had published this work, to help end juridical squabbles in the interest of Muslim unity. On the persistence of such disputes in Najd, the cradle of the nascent Saudi state, see *ibid.*, 1: 24. On Rida's comments on the Afghans, see [Chapter 8](#), n. 132.

The qualifications for it, like the definition itself, were relatively simple. One needed to possess

an understanding of the Qur'an and the normative example of the Prophet, as well as knowledge of the purposes of the law (*maqasid al-shar'*). [Ijtihad] also require[d] cognizance of people's customs and circumstances, for the rulings of the sacred law, especially those that concern human interaction, turn on the common good . . . , that is, on the principle of avoiding harm and seeking that which is beneficial.⁴

Taqlid, to Rida, was the diametrical opposite of ijthad – a view he shared with Muslim modernists. In his multifaceted diatribes against taqlid, Rida argued that rigid adherence to the schools of law had divided the community into warring factions, that the eponymous founders of the schools as well as other early masters had been turned into veritable icons all but worshipped by the people, that taqlid had deadened people's mental faculties, and that, in alliance with sellouts among the `ulama, the rulers had used taqlid in support of their despotism. Above all, taqlid had set up barriers between the people and what God had intended to be their unmediated access to the Qur'an.

Rida's commentary on the Qur'an, the *Tafsir al-manar*, is replete with attacks on taqlid and on the `ulama committed to it. Commenting on the Qur'anic injunction (Q 4.82) to reflect (*tadabbur*) on its teachings, Rida argues, for instance, that this is an obligation on everyone "and not just on those called the mujtahids" (that is, people capable of ijthad).⁵ Following Fakhr al-din al-Razi (d. 1209), Rida notes that this Qur'anic injunction lays down "the necessity of one's intellectual independence in understanding the Qur'an, for proper reflection [on it] is not achieved otherwise. And this entails the falsity of taqlid."⁶ He continues:

By the rejection of taqlid, we do not mean that every Muslim can possibly become a Malik or a Shafi'i [the eponymous founders of two Sunni schools of law] in deriving the juristic rules relating to the community, or that everyone ought to do so. We mean only that every Muslim is obligated to reflect on the Qur'an and to be guided by it in accordance with his abilities. It is never permissible for a Muslim to abandon it and to turn away from it, or to prefer, over what he understands of its guidance, the words of anyone else – be it a mujtahid or a practitioner of taqlid (*muqallid*).⁷

Most Deobandi `ulama were, for their part, firm adherents of taqlid. Although an honored guest, this made for some tension when Rida visited Deoband in 1912. In his welcoming speech, Muhammad Anwarshah Kashmiri (d. 1933) noted that Rida appeared "altogether unfamiliar" with the religious and scholarly approach

⁴ Muhammad Rashid Rida, "al-As'ila al-barisiyya," in idem, *Kitab muhawarat al-muslih wa'l-muqallid* (Cairo: Matba'at majallat al-manar al-Islamiyya, 1906), 132–40, at 134.

⁵ Rida, *Tafsir al-manar*, 5: 295.

⁶ *Ibid.*, 5: 296.

⁷ *Ibid.*, 5: 297; cf. Euben and Zaman, *Princeton Readings*, 7–8.

of the Deobandi scholars, and he proceeded to enlighten his guest on it.⁸ Deoband, Kashmiri said, is not a “modernist institution,” but one devoted to presenting Islam in its true colors. This effort was necessary because India’s distance from the cradles of Islam had tended to “blur the markers of Islam in this land.”⁹ It had become all the more necessary with the onset of colonial rule, which not only brought Christian missionaries to India but had also employed people who were “Muslims only in name” for the propagation of anti-Islamic ideas.¹⁰

So far as the intellectual and religious orientation of Deoband was concerned, Kashmiri, like other Deobandis before and after him, saw it as directly in line with the ideas of Shah Wali Allah. In his own age, Kashmiri said, Wali Allah had also sought to remedy the deleterious consequences of India’s distance from the traditional centers of Islam as well as the consequences of the decline of Muslim rule. Wali Allah’s proposed remedy was to reintroduce the Muslims of India to the foundational texts of Islam. To this end, he had translated the Qur’an into Persian and written commentaries on the *Muwatta* of Malik b. Anas (d. 795), one of the earliest extant works of law. A central concern of the Deobandis, as Kashmiri explained it for Rida’s benefit, was the understanding of hadith from a legal perspective (*fiqh al-hadith*),¹¹ and Wali Allah was a key figure in charting this path for them.

To Kashmiri, the significance of Wali Allah’s commentary on the *Muwatta* lay in elucidating afresh certain methods for the application and derivation of legal norms. Among these, he mentioned three: *tahqiq al-manat*, *tanqih al-manat*, and *takhrij al-manat*. As Kashmiri explained it, *tahqiq al-manat* was a matter of extending a ruling to all cases that were deemed to fall under that rule. The shari’a has prohibited the act of hunting while the pilgrim to Mecca is in a state of ritual purity (*ihram*). If a pilgrim breaks this taboo, he is required to pay the price of the hunted animal in expiation. The determination of that price in particular instances constituted *tahqiq al-manat*. This was a form of reasoning that could be undertaken by “anyone,” Kashmiri said, for it was not a matter of analogical

⁸ The speech was delivered in Arabic, though the complete text is only available, so far as I am aware, in an Urdu translation: Mas’udi, *Naqsh-i dawam*, 446–62. Selections from the Arabic text are to be found in Banuri, *Nafhat al-`anbar*, 72–81. Kashmiri was probably right in his view that Rida had little prior acquaintance with Deoband. In his responses in 1904 to some questions sent to him by an Egyptian from Paris, Rida had made no reference to Deoband when asked to name institutions comparable to al-Azhar; he had mentioned the Qarawiyyin in Fez (in Morocco), the Zaytuna in Tunis, the Shi’i madrasas of Najaf in Iraq, and the madrasas of Ottoman Constantinople (see “al-As’ila al-barisiyya” in Rida, *Muhawarat*, 137). Conversely, by the time he came to write an account of his 1912 visit to India, Rida was referring to Deoband as “the Azhar of India.” See Muhammad Rashid Rida, “Ujala min rihlat al-Hind,” *al-Manar* 15 (1912): 449–58, 619–27, at 621. Cf. *al-Manar* 31 (1930): 205.

⁹ Mas’udi, *Naqsh-i dawam*, 447.

¹⁰ *Ibid.*, 455.

¹¹ *Ibid.*, 456.

reasoning (*qiyas*) or of *ijtihad*, in which case it would have had to be limited to a select few.¹²

Tanqih al-manat signified determining the specific rationale governing a particular ruling and isolating it from other, circumstantial factors with no bearing on the ruling. Kashmiri's example of a situation in which such an exercise would be necessary comes from a hadith according to which a distressed bedouin had come to the Prophet to report that he had had sexual intercourse with his wife while fasting. Given that sex is forbidden during the course of a fast, the Prophet had proceeded to give the bedouin various options whereby he could expiate this infraction. Tanqih al-manat would consist here in determining what was the effective cause for expiation: was it specifically the act of sexual intercourse while fasting, or *any* act that breaks the fast before its appointed time?¹³ Takhrij al-manat, too, was a matter of isolating the rationale governing a ruling in instances where such rationale was not clearly indicated. This exercise differed from the previous one, however, in that several possible candidates could conceivably serve as a valid rationale for a particular ruling – say, the prohibition of financial interest – and it was for the mujtahid to draw out what he thought was the most likely reason underlying the prohibition.¹⁴

“On questions requiring *ijtihad*, the correct view (*al-haqq*) is multiple,” Kashmiri said, referring to Wali Allah's writings. He continued:

By questions of *ijtihad*, I mean those on which no ruling from the Qur'an exists, nor do any of the most authoritatively transmitted teachings of the Prophet (*sunna mutawatira*). The correct position in such matters can be varied. But if there is a definitive text [from the foundational sources], there is no *ijtihad*. There is a single true position in such cases, which is what accords with the definitive text. Whosoever conforms to it conforms to the truth, and whosoever opposes it opposes the truth.¹⁵

Ijtihad, then, was not only a matter of bringing the necessary skills to bear on the problem in question and of not overstepping the clear bounds of the foundational texts; it also assumed a toleration of legitimate disagreement. The same moderation was typified, Kashmiri argued, in the Deobandi attitude to the study of hadith. Like their Hanafi forbears, the masters of Deoband did not want to weigh one hadith report against another but sought rather to reconcile their differences so that they could all remain relevant to Muslim belief and conduct. He concluded

¹² Ibid., 450; Banuri, *Nafhat al-`anbar*, 74. This, incidentally, is a significant assertion, for *tahqiq al-manat* is often considered to be a form of *ijtihad* in classical legal theory. See al-Ghazali, *al-Mustasfa*, 2: 230–1.

¹³ Mas'udi, *Naqsh-i dawam*, 451–2; Banuri, *Nafhat al-`anbar*, 74–5.

¹⁴ Mas'udi, *Naqsh-i dawam*, 450–1; Banuri, *Nafhat al-`anbar*, 75. On *tahqiq*, *tanqih*, and *takhrij*, also see Anwarshah Kashmiri, *al-`Arf al-shadhi sharh sunan al-Tirmidhi*, compiled by Muhammad Chiragh and edited by `Amr Shawkat, 4 vols. (Beirut: Dar al-kutub al-`ilmiyya, 2007), 1: 46–7; and Mujahid al-Islam al-Qasimi, *Fiqh al-mushkilat: Buhuth fiqhiyya mukhtara* (Karachi: Idarat al-Qur'an wa'l-`ulum al-Islamiyya, 2000), 85–8, giving many of the same illustrations as Kashmiri did to Rida.

¹⁵ Banuri, *Nafhat al-`anbar*, 76; Mas'udi, *Naqsh-i dawam*, 453.

with a number of examples illustrating the hermeneutical approach of the Hanafis and, more specifically, of the Deobandis to the juridical study of hadith.¹⁶

Kashmiri's welcoming address was an exercise in virtuosity. But the goal seems to have been more than to dazzle Rida. Kashmiri also sought to show that Wali Allah, whom Salafis like Rida held in high esteem,¹⁷ was a key figure in the Deobandi genealogy, so that there was a basis for some intellectual affinity between people like Rida and the Deobandis.¹⁸ Kashmiri also wanted to make the point – against medieval and modern accusations that Hanafi norms had a rather tenuous basis in hadith – that Hanafi jurists had, in fact, been highly attentive to the juridical understanding of hadith and that the Deobandis had now come to embody and represent that effort. No less importantly, and although he did not say so explicitly, Kashmiri may have wanted to emphasize that certain forms of *ijtihād*, by way of analogical reasoning, continued to remain accessible even to latter-day scholars. The audience here may not have been Rida alone, but also those other Deobandis who were skeptical that modern scholars had any ability for *ijtihād* left in them or that there was any particular need for it.

Although Rida reportedly said on the occasion that he “liked and agreed with the principles Shaykh Anwarshah had elucidated . . . and the orientation of his masters as he had explained it,”¹⁹ his later comments in *al-Manar* make clear that he was far from impressed by Kashmiri's disquisition. Rida did have many good things to say about the Deobandis, which may have been partly motivated by a desire to paint the Azhar establishment in unfavorable colors in comparison with Deoband and partly to distance himself from the modernists. In recounting his Indian travels for the readers of *al-Manar*, he wrote, for instance, that many “worldly people” had cautioned him about the “stagnation and fanaticism” (*al-jumud wa'l-ta'assub*) of the Deobandi `ulama, but that “nothing had pleased him more in India than the Deoband madrasa,” whose `ulama he had found to be “the farthest of all religious scholars he knew from stagnation and conceit.”²⁰ Yet he could not get over his exasperation at the Deobandi commitment to *taqlid* or, more precisely, his sense of what this *taqlid* entailed. He did not specifically name Anwarshah Kashmiri in this context,²¹ even when referring in his *Manar*-travelogue to the speech by “one of [Deoband's] `ulama on the history of the madrasa and its intellectual pursuits.”²² But his acerbic remarks on *taqlid* and the Indian `ulama were unmistakably, albeit somewhat belatedly, prompted by Kashmiri's welcoming address at Deoband.

¹⁶ Banuri, *Nafhat al-`anbar*, 78–81; Mas'udi, *Naqsh-i dawam*, 457–62.

¹⁷ Cf. Rida, “al-As'ila al-barisiyya,” in idem, *Muhawarat*, 137; idem, “Ujala,” 620.

¹⁸ There were other bases, too, notably the fact that the two men shared a teacher in Husayn al-Jisr.

¹⁹ See “Allama Rashid Rida Deoband main,” *Aligarh Institute Gazette*, April 24, 1912: 7–10 (an eyewitness account of Rida's visit to Deoband and of his speech there); quotation at p. 7.

²⁰ Rida, “Ujala,” 621.

²¹ Kashmiri is mentioned elsewhere, along with prominent Deobandi and other figures, in a note in which Rida had publicly thanked his Indian hosts: *al-Manar* 16 (1913): 106.

²² Rida, “Ujala,” 622.

As Rida saw it, the excessive Deobandi commitment to their school of law translated into forcing hadith into the mold of Hanafi legal norms and explaining away anything that did not seem to fit that cast. He reminisced as follows in *al-Manar*:

I said to one of India's leading `ulama, in whom I had noticed a sense of probity and fairness, that such an [interpretive] approach constitutes the very tampering [the foundational texts] for which the Qur'an castigates the People of the Book [i.e., the Jews and the Christians]. That scholar replied, "Yes, indeed." I said, "So why, then, do you not study hadith and report its meaning in accordance with the sense of its actual words irrespective of what the schools of law say?" He replied: "The students will not accept such an approach and will not attend the lectures on hadith unless it's studied in this [conventional] way." I said: "So you give precedence to *their* pleasure to the pleasure of God!" He said, "That is the reality."²³

In a clear reference to Kashmiri, Rida then notes that "one of Deoband's `ulama" had said that all hadith reports could easily be shown to be in accord with the norms of the Hanafi school and he had illustrated this assertion with a number of examples. This, Rida observes, "is the strangest thing I have heard from those engaged in [the pursuit of] religious learning."²⁴

Although Deobandi scholars have long insisted that the norms of their Hanafi school of law are in full accord with authentic hadith reports, `ulama like Kashmiri took a more complex view of the relationship between the legal tradition and the foundational texts and, as observed in Kashmiri's speech in Rida's honor, of *ijtihad* itself, than Rida acknowledged. Elsewhere, in a posthumously published commentary on the hadith collection of al-Bukhari (d. 870), Kashmiri argues, for instance, that the foundational texts of the shari`a often put forth pronouncements of a general nature, but it remained for the mujtahids to elucidate the various ways in which, or the levels at which, such pronouncements were to be understood or implemented. *Ijtihad* became necessary precisely because these matters of detail were left unspecified. By the same token, a lack of specification in the foundational texts not only explained but also justified disagreement among the jurists in how they approached the texts even as it allowed them a measure of maneuverability vis-à-vis the texts in question.²⁵ There is no reason to suppose that *ijtihad* refers here to any grandiose conception of the practice that had once existed in Islam's

²³ Ibid., 622–3. Cf. the remarks of `Ubayd Allah Sindhi on approaches to the study of hadith and the Qur'an at Deoband: *Ilham*, 129–31.

²⁴ Rida, "Ujala," 623. See `Abd al-Razzaq Malihabadi, *Zikr-i Azad* (Delhi: Educational Publishing House, 2006), 27, for a similarly derisive view of Kashmiri by an Indian student of Rida. Malihabadi (d. 1959) had studied with Rida at the latter's short-lived Madrasat al-da'wa wa'l-irshad. On the latter institution, see the Introduction and Chapter 5.

²⁵ Kashmiri, *Fayd al-bari*, 1: 440–3, esp. 440–1 ("Kitab al-wudu"). In referring to this work, I primarily rely on the 2005 Beirut edition. For convenience of reference, however, I will occasionally also cite the edition published from Deoband: *Fayd al-bari `ala Sahih al-Bukhari*, compiled by Muhammad Badr-i `Alam Mirathi, 4 vols. (Deoband, 2000), 1: 279–81, esp. 279.

first centuries but had long since become extinct. The sense here is that of a continuing effort to understand the Qur'an's general prescriptions complete with the jurists' ongoing disagreements on their precise implications. It is worth noting that, in the course of his speech in Rida's honor, Kashmiri had referred to Rashid Ahmad Gangohi (d. 1905), one of the founders of the Deoband madrasa, as himself a mujtahid.²⁶

Just as an emphasis on the overall framework of taqlid did not preclude limited forms of ijthad, so too, for Kashmiri, is the authority of earlier views not binding in all respects. Interpreting the Qur'an "according to one's opinion" (*tafsir bi'l-ra'y*), rather than according to the teachings of the first Muslims, has long carried considerable opprobrium in exegetical circles. To Kashmiri, however, as he explains it in his hadith commentary on al-Bukhari, the traditional stigma of following "mere opinion" in interpreting the foundational texts applied only when one was ignorant of the views of the forbears, of the Arabic language, and of the relevant sciences; otherwise, he asks rhetorically, "what prevents the scholars from bringing forth the meaning of the [foundational] texts after careful consideration of the context and with attention to the true sense of the words, understood in conformity with the beliefs of the forbears (al-salaf)?"²⁷ In a commentary on another hadith collection, that of al-Tirmidhi (d. 892), Kashmiri goes even further: "What tafsir [commentary] according to one's opinion means is a matter of intuition (*amr dhawqi*) for those with a sound intuition. Those who have dealt with tafsir know what is [legitimate] exegesis and what is [mere] opinion."²⁸ All this amounts to saying that scholarly understanding of the foundational texts ought to be anchored in an earlier and ongoing tradition, but that it need not take the form of specific textual proof in support of every single interpretation. This view was as much a defense of earlier Hanafi jurists against the charge that their interpretations were insufficiently grounded in textual proofs as it was an effort to accommodate new interpretations by latter-day scholars.

Whereas the commentary on Bukhari's hadith collection was first published in Egypt in 1938, just a few years after Rida's death, the one on Tirmidhi had become

²⁶ "*al-faqih al-hafiz al-mujtahid al-wali; kana faqihan mujtahidan*": Banuri, *Nafhat al-'anbar*, 77; Mas'udi, *Naqsh-i dawam*, 455. Sindhi, for his part, referred to Muhammad Qasim Nanotawi, another founding figure of Deoband, as a mujtahid: *Ilham al-Rahman*, 62. Cf. Dietrich Reetz, *Islam in the Public Sphere: Religious Groups in India, 1900–1947* (Delhi: Oxford University Press, 2006), 99–100.

²⁷ Kashmiri, *Fayd al-bari*, 6: 204; Deoband 2000 ed., 4: 150. Kashmiri makes this point at the outset of his commentary on al-Bukhari's "Kitab al-tafsir." Shah Wali Allah would have concurred. As Wali Allah had put it, "ra'y in matters of belief (*din*) amounts to distortion, but in judicial matters it is a meritorious thing." Wali Allah, *al-Tafhimat al-Ilahiyya*, ed. Ghulam Mustafa al-Qasimi. 2 vols. (Hyderabad: Shah Wali Allah Academy, 1967–70), 2: 142 (#116). Also see al-Qurtubi, *al-Jami' li-ahkam al-Qur'an*, 20 vols. (Cairo: Dar al-katib al-'arabi lil-tiba'a wa'l-nashr, 1967), 1: 32–3.

²⁸ Kashmiri, *al-'Arf al-shadhi*, 4: 145.

available in lithograph in 1925.²⁹ Quite apart from these works, however, there was enough in Kashmiri's speech on the occasion of Rida's visit to Deoband to help him take a more nuanced view of Deobandi taqlid. That he did not do so is not especially surprising, although it merits a brief explanation. There were, and are, many Deobandi (and other) scholars who insist, after all, on an uncompromising regimen of taqlid, and Rida would not have been wrong in taking *them* to represent the predominant Deobandi view of the matter. But Rida's long-standing conflict with the madhhab-bound `ulama of al-Azhar surely also factored into his reaction to Deoband. A recognition that taqlid could mean anything more than "blind imitation" would have emboldened the very people Rida had devoted his life to combating.³⁰ Rida's polemic on the putative stringency of Deobandi taqlid, his own aforementioned comments on the *lack* of Deobandi "stagnation and fanaticism" notwithstanding, suggests that the subject of ijtiḥad and taqlid had become a useful way of debating much larger issues. In Rida's case, the larger issue was his lifelong engagement with the reform of al-Azhar and what he saw as the intellectually sterile and backward-looking culture of its `ulama.

Not all reformists shared Rida's view of Kashmiri. The modernist philosopher and poet Muhammad Iqbal, whose ideas on consensus we briefly reviewed in the previous chapter, is reported to have held Kashmiri in especially high esteem. Deeply interested in the idea of rethinking Islamic legal norms and of seeing them codified, Iqbal was keen to enlist Kashmiri in the latter effort. Like many other modernists, Iqbal, trained in the English common law tradition, had a poor opinion of the `ulama, and this is amply reflected in his poetry.³¹ But he viewed Kashmiri differently. When, in 1928, Kashmiri was forced to leave the Deoband Dar al-`Ulum on account of disagreements with the madrasa administration, Iqbal is

²⁹ On the publication date of *al-`Arfaḥ-shadhi*, the commentary on al-Tirmidhi, see Carl Brockelmann, *Geschichte der arabischen Litteratur*, 2 vols. + 3 supplements (Leiden: Brill, 1996), Supplement 1: 268.

³⁰ For the characterization of taqlid as blind imitation, see, for instance, Rida, *Muhawarat*, 8 (of the Preface, paginated separately), and *ibid.*, 64; also see *idem*, "Ujala," 620. Interestingly, while the speeches Rida had given at the Nadwat al-`Ulama in Lucknow and the Muhammadan Anglo-Oriental College in Aligarh were soon published in *al-Manar*, his speech at Deoband never appeared there. An abbreviated Urdu version was, however, published in a contemporary journal, the *Aligarh Institute Gazette* ("Allama Rashid Rida Deoband main," 7–10). If that is a faithful account of his speech, he did not speak of ijtiḥad and taqlid in it. He may well have thought it to be too sensitive a subject to broach at this bastion of traditionalism, though Kashmiri, of course, did talk about it. And Rida himself had taken some time to criticize traditional religious education in India and Egypt.

³¹ Consider the following well-known poem, titled "Heaven and the Priest": "Being present myself, my impetuous tongue/To silence I could not resign./When an order from God of admission on high/Came the way of that reverend divine;/I humbly addressed the Almighty: Oh Lord,/Excuse this presumption of mine,/But he'll never relish the virgins of heaven,/The garden's green borders, the wine!/For Paradise isn't the place for a preacher/To meddle and muddle and mangle,/And he, pious man – second nature to him/Is the need to dispute and to jangle;/His business has been to set folk by the ears/And get nations and sects in a tangle: Up there in the sky is no Mosque and no Church/And no Temple – with whom will he wrangle?" *Poems from Iqbal*, translated by V. G. Kiernan (London: John Murray, 1955), 44.

reported to have tried to persuade him to come to Lahore to work with him on matters relating to Islamic law. Sa'îd Ahmad Akbarabadi, a student of Kashmiri who was living in Lahore in 1927–8 and occasionally visited Iqbal during this time, paraphrases Iqbal's comments to him as follows:

What Islam needs most today is a new codification of the law, which can provide the correct Islamic solution to those countless problems of life that have been brought forth by changing political, economic, and social conditions at the national and international levels. . . . What precisely are these problems and what is their source? I have been thinking about this for a long time. I will put them before Shah Sahib [i.e., Kashmiri], so that he can explain the proper Islamic way of addressing them. In this way, through our collaboration, the codification of a new Islamic law will come about.³²

Kashmiri, however, decided to move to Gujarat, in western India, where some Gujarati patrons established a new madrasa for him.³³ Iqbal, for his part, continued to reflect on Islamic law, delivering his lecture on *ijtihad* – “The Principle of Movement in Islam” – in 1930.

As set out in elaborate detail in this lecture, Iqbal's view of *ijtihad* was nothing if not radical: he was interested not in the limited forms of *ijtihad* through which many Sunni jurists of medieval Islam had sought to adapt their legal tradition to new circumstances, but rather in a thoroughgoing rethinking of the entire legal tradition in light of the foundational texts. He writes:

I know the Ulema of Islam claim finality for their popular schools of Mohammedan Law, though they never found it possible to deny the theoretical possibility of a complete *Ijtihad*. . . . Did the founders of our schools ever claim finality for their reasonings and interpretations? Never. The claim of the present generation of Muslim liberals to reinterpret the foundational legal principles in the light of their own experience and altered conditions of modern life is, in my opinion, perfectly justified. The teaching of the Quran that life is a process of progressive creation necessitates that each generation, guided but unhampered by the work of its predecessors, should be permitted to solve its own problems.³⁴

³² See Sa'îd Ahmad Akbarabadi, “Ae ke tu majmu`a-i khubi,” in Sayyid Anzar Shah Mas`udi, *Taswir-i Anwar* (Deoband: Ma`had al-Anwar, 2004), 339–40. Also see Akbarabadi, *Naqid*, 199–200; idem, *Khutbat-i Iqbal par aik nazar* (Sri Nagar: Iqbal Institute, 1983), 70–1. On the dates of Akbarabadi's stay in Lahore, see *ibid.*, 55. For Kashmiri's positive view of Iqbal (as a philosopher), see Sayyid Ahmad Rida Bijnori, compiler, *Malfuzat-i muhaddith Kashmiri* (Deoband: Bayt al-hikmat, n.d.), 367–8. Iqbal's proposed collaboration with him on legal issues brings to mind what Shibli Nu`mani had once proposed on theological matters. See Chapter 2, n. 43.

³³ Akbarabadi, “Ae ke tu majmu`a-i khubi,” 340. For another account, see Abu `Ammar Zahid al-Rashidi, *Asr-i hadir main ijtihaad: chand fikri wa `amali mabahis* (Gujranwala: al-Shari'a Academy, 2008), 79–80.

³⁴ Iqbal, *Reconstruction*, 160. Also cf. *ibid.*, 141. For a discussion of this work, see Akbarabadi, *Khutbat-i Iqbal*; Muhammad Khalid Masud, *Iqbal's Reconstruction of Ijtihad* (Lahore: Iqbal Academy, 1995); on the dating of this lecture, see *ibid.*, 95–6.

ʿUlama like Kashmiri would have agreed that the eponyms of the schools of law never claimed finality for their positions but, he would have argued, this fact does not necessarily entail that the “*foundational* legal principles” might themselves be reinterpreted or that rules clearly stipulated in the foundational texts could be rethought. As briefly mentioned in the previous chapter, Iqbal’s extensive correspondence with Sayyid Sulayman Nadwi while he was working on this lecture hints at a desire to find some traditionalist justification for a modification in legal norms relating to certain Qur’anic punishments (hudud), the Islamic rules of inheritance, and possibly in other areas of human interaction (*mu`amalat*).³⁵ Nadwi had firmly rejected such suggestions, and Kashmiri could hardly have had a different view. Both would surely also have contested Iqbal’s claim, elsewhere in the lecture, that the ʿulama had reduced “the Law of Islam practically to a state of immobility” or the implicit suggestion that the only meaningful choice was between such immobility and “complete authority in legislation.”³⁶ Deobandi ʿulama have been considerably more open to the idea of the codification of the shari`a than many ʿulama elsewhere, for instance, in contemporary Saudi Arabia.³⁷ And Kashmiri may not have been averse to Iqbal’s interest in such a project, especially if the ʿulama were to oversee it. But for all his openness to possibilities of continuing legal change, Kashmiri’s discourses give no indication that he, any more than Sulayman Nadwi, would have supported the sort of venture in rethinking legal norms that Iqbal had in mind. Assuming, as I do, the veracity of the reports about Iqbal’s interest in working with Kashmiri, it seems unlikely, then, that the effort would have gone very far even if Kashmiri had decided to go to Lahore rather than move to Gujarat.

None of this is to diminish the significance of the language of *ijtihād*, as Kashmiri used it, in at least symbolically signaling possibilities of continuing legal evolution while also pointing to the constraints on it. Rather, it is to remind ourselves that *ijtihād* can connote quite different things – a point of which we will see further illustrations in the following pages. Nor should we view Kashmiri’s interest in the idea of *ijtihād* only in terms of the *modernist* challenge. For one thing, as his disquisition in Rida’s honor suggests, Kashmiri wished to be seen as simply continuing in the footsteps of scholars like Wali Allah, and there is no good reason to dismiss his self-view on this score. Wali Allah had famously shown himself open to possibilities of *ijtihād* without yet rejecting the authority of the *madhhab* or the necessity of *taqlid* for ordinary believers. More than many of his Deobandi colleagues, if rather less explicitly than Wali Allah, Kashmiri was treading the same fine line. But there was another rival to contend with, one far closer to home than the modernists: these were the Ahl-i Hadith – the Indian Salafis – who challenged the authority of the Sunni schools of law (*madhhabs*) and advocated direct recourse to the Islamic foundational texts. Kashmiri’s qualified endorsement of *ijtihād* may

³⁵ ʿAta Allah, *Iqbal nama*, 1: 145–50; cf. *ibid.*, 160–3, 182–5.

³⁶ Iqbal, *Reconstruction*, 141–2.

³⁷ Zaman, *The Ulama*, 97–8.

be seen as an effort at taking the wind out of the Ahl-i Hadith sails by showing that fidelity to the madhhab did not require a rejection of *ijtihad* or, conversely, that giving *ijtihad* its due did not necessitate a rejection of the madhhab itself. Implicit here is the suggestion, too, that once the question of *ijtihad* was taken out of the equation, there was not very much to tell the Indian Ahl-i Hadith from the Deobandis.³⁸ Inasmuch as there was a strategic dimension to Kashmiri's deployment of the language of *ijtihad*, it seems to prefigure certain later Deobandi overtures.

IJTIHAD BETWEEN SOUTH ASIA AND THE MIDDLE EAST

For all the promise of his ideas, there is little evidence that Kashmiri ever proposed *ijtihad* on any substantive issue. Ironically, some of the work of a scholar otherwise highly suspicious of the language of *ijtihad* and firmly refusing it for his own endeavors is the closest approximation to the practice of *ijtihad* in late colonial India. The scholar was Ashraf `Ali Thanawi (d. 1943), arguably the single most influential of the `ulama in the entire Deobandi tradition. A brief background to a legal initiative of his, which reveals an instructive tension between the language of *ijtihad* and its practice, is in order here.

In the early twentieth century, a number of Muslim women had apostasized in northern India as a way of ending their marriages. The context of these incidents was the absence of Muslim judges who alone, according to many among the `ulama, could terminate an undesirable marriage. Hanafi law stipulated that a woman whose husband had disappeared ought to wait for him for the duration of the natural lifespan before presuming his death and remarrying. In principle, some of the `ulama were willing to have recourse in such instances to the provisions of the Maliki school of law, which required the woman to wait for the missing husband for four years. Yet even the resort to Maliki legal provisions needed a shari`a-based judge (*qadi*), absent in British India. (The position of the *qadi* had largely ceased to exist under the East India Company; not long after the formal establishment of British colonial rule in 1858, the practice of having muftis assist with the judicial administration was also discontinued.) This meant, in effect, that the woman with the missing husband had little choice but to wait for the rest of her life, often in conditions of severe financial distress. There was one important loophole that Hanafi law had retained: the renunciation of Islam by a

³⁸ On the social and theological conservatism of the Ahl-i Hadith, see Rieckinger, "Puritan Islam," 156–7. Also cf. Rida, "Ujala," *al-Manar* 15 (1912): 624, where, despite a very favorable view of the Ahl-i Hadith, he gives no inkling that their concerns extended beyond the purity of doctrine and practice. (For Rida's positive view of the Ahl-i Hadith, also see *ibid.*, 31 [1930–1], 277.) On the gradual convergence between the Ahl-i Hadith and the Deobandis, see `Ubayd Allah Sindhi in Shahjahanpuri, *Makatib*, 121.

spouse immediately dissolved a marriage. The dominant view among the medieval Hanafi jurists had been that the apostate wife ought to be forced to reconvert to Islam and be remarried to her (former) husband. A second, less prevalent, view was that apostasy had no effect on the status of the marriage; and a third, and most extreme, view was that the wife's apostasy turned her into her husband's slave girl.³⁹ There seems to have been enough local knowledge of these matters in early twentieth century India to lead a number of Muslim women to apostasize as a way of ending their marriage. With its recognition of Islamic legal norms in matters of personal status, the colonial legal system accepted this as a valid termination of the marriage *without*, however, requiring the apostate wife either to reconvert to Islam or to remarry her former husband. Many among the `ulama recognized that preaching hellfire would not suffice to deter such women and that, on the question of apostasy in relation to marriage at least, taqlid had reached the limits of its usefulness.

Thanawi took the lead in responding to this crisis. With the assistance of several Deobandi `ulama, he published a treatise in 1933 in which he argued that the dominant Hanafi view regarding apostasy – viz., that it dissolved the marriage and required the apostate woman to be reconverted to Islam and remarried to her previous husband – ought to be relinquished in favor of the view that apostasy had no effect on the status of a marriage. Prior to the publication of this treatise, *The Consummate Stratagem for the Powerless Wife*, Thanawi had communicated with jurists of the Maliki school of law in Medina to ascertain the options that the less stringent Maliki school provided a woman seeking a divorce. On the basis of fatwas he had obtained from these scholars, Thanawi argued that the marriage of a woman whose husband had disappeared could indeed be ended four years after his disappearance. On the critical question of *how*, in the absence of Muslim judges, such a marriage might be ended, Thanawi argued, again with reference to Maliki law, that people ought to establish committees of righteous Muslims to assume the function of the qadi in particular instances. He also suggested that Muslims ought to mobilize support in favor of new legislation by the government to address the legal problems they were facing. The Jam`iyyat al-`Ulama-i Hind spearheaded the call for this legislation, which was enacted as the Dissolution of Muslim Marriages Act in 1939.⁴⁰

The 1939 act did not provide for Muslim judges and thus failed to meet one of the `ulama's most important demands. It did, however, stipulate that apostasy

³⁹ Ashraf `Ali Thanawi, *al-Hila al-najiza lil-halilat al-`ajiza* ([1933], reprinted as *Ahkam-i talaq wa nizam-i shar`i `adalat, ya`ni al-hila al-najiza-i jadid*, ed. Khurshid Hasan Qasimi [Lahore: al-Faysal, 1996]), 323–5. Cf. Ibn `Abidin, *Radd al-muhtar `ala al-Durr al-mukhtar*, ed. `Adil Ahmad `Abd al-Mawjud and `Ali Muhammad Mu`awwid, 14 vols. (Beirut: Dar al-kutub al-`ilmiyya, 1994), 4: 367–9, 6: 400–1.

⁴⁰ See Thanawi, *al-Hila*. On the 1939 Act, see Rohit De, "Mumtaz Bibi's Broken Heart: The Many Lives of the Dissolution of Muslim Marriages Act," *Indian Economic and Social History Review* 46 (2009): 105–30.

would no longer suffice to end a Muslim marriage, and it made divorce easier for Muslim women. These were important gains for the `ulama, although the significance of Thanawi's initiative goes beyond them. Against modernist critics of the inflexibility of Islamic law, he had demonstrated that it could be adapted to changed circumstances and that such adaptation could take place with the resources available within the Islamic legal tradition. There was, he had shown, a disciplined way in which the norms of another school of Sunni law could be utilized, just as the Hanafi school's own resources could provide alternatives to some of its dominant views. Reform was not a matter of setting the tradition aside but rather of digging deeper into it.

Some later Deobandis have characterized Thanawi's juridical initiative as nothing short of *ijtihad* and, according to Mujahid al-Islam Qasimi, a prominent Deobandi scholar of India and the founder, in 1989, of the Islamic Fiqh Academy of India, Thanawi was the leading mujtahid after Wali Allah.⁴¹ Thanawi's legal initiative – which had brought together many prominent Deobandi and other `ulama and had drawn on the opinions of Maliki jurists of Medina – can also be viewed as an early instance of what today is often characterized as collective *ijtihad*. Thanawi himself had continued to insist, however, that he was only a practitioner of *taqlid* and that no mujtahids existed in his time. This was more than *pro forma* modesty. Underlying it, besides the conviction that the Islamic juridical tradition already had resources to meet new eventualities, was the long-standing fear that *ijtihad* could open the doors to willful, self-serving interpretations.⁴² The *Ahl-i Hadith* continued to perturb him throughout his career. More than many other Deobandis of his age, however, he was also aware of the modernist challenge to the `ulama. Although he did not put it this way, Thanawi clearly had no appetite for seeing modernist interpreters justify their own capricious interpretations of the foundational texts on grounds that the `ulama, too, were openly endorsing the practice of *ijtihad*.⁴³ And in any case, as his own juridical initiative suggests, he did not think he needed to invoke *ijtihad* to be able to reinterpret, or to choose among, legal norms.

Yet, paradoxically, even as Thanawi's legal initiative can be considered as an instance of *ijtihad* and, indeed, of collective *ijtihad*, it is very much a product

⁴¹ al-Qasimi, *Fiqh al-mushkilat*, 71. Also see Muhammad Zayd, "Ijtihad: Ahkam, shara'it, wa tariq-i kar," in *Ijtihad awr masa'il-i ijtihad* (Delhi: Institute of Objective Studies, 1998), 41.

⁴² For his defense of *taqlid*, see Thanawi, *al-Iqtisad*.

⁴³ For an early example of this, see Cheragh Ali, *The Political, Legal, and Social Reforms in the Ottoman Empire and Other Mohammadan States* (Bombay: Education Society's Press, 1883), vii–viii. Cheragh Ali, a pioneering Indian modernist, cites the distinguished Indian jurist `Abd al-'Ali Bahr al-'Ulum's (d. 1810) strongly worded refutation of those who claimed that possibilities of *ijtihad* had ceased to exist since the twelfth century CE. Cheragh Ali's concern here was to dispute *Orientalist* stereotypes of the Islamic legal tradition as unchanging. But, like Iqbal in a later generation, he would not have excluded the contemporary `ulama from similar misconceptions. For their part, his `ulama contemporaries would have scarcely been pleased with this mustering of a distinguished earlier scholar in support of his argument.

of an age of unrelenting taqlid in many Deobandi circles. It was precisely the `ulama's insistence on hewing close to the norms of their Hanafi school, the more so in adverse colonial conditions, that had produced the sort of hardship that eventually constrained Thanawi to look for a way out. In the first half of the twentieth century, at the very time that many Sunni `ulama in the Middle East were becoming increasingly more comfortable with the idea of ijthihad, the regimen of taqlid had actually become more stringent in many South Asian circles. How are we to account for this remarkable contrast? Several overlapping explanations suggest themselves.

First, British rule had arguably affected the practice of Islamic law more drastically in South Asia than it did in Egypt. For all the transformations that the Egyptian judicial system underwent in the late nineteenth century, it was only in 1955 that the shari'a courts were finally abolished.⁴⁴ By contrast, as will be recalled, British India did not have any officially recognized qadis or shari'a courts. In Egypt, too, the Earl of Cromer, the British consul-general, had wanted "to abolish [these courts] as a separate institution altogether, and to transfer their jurisdiction to the ordinary Civil Courts,"⁴⁵ but it is telling that no such thing happened while the British ruled Egypt. If Islamic law looked rather more vulnerable in colonial India than it did in Egypt, then it is not surprising that the time-tested instrument of taqlid was deployed by the `ulama with greater vigor in India than it may have been in Egypt.⁴⁶

A second explanation has to do with the considerably greater vitality of traditionalist scholarship in South Asia as compared with the Arab Middle East. Rashid Rida himself acknowledged this. As he wrote toward the end of his life in a preface to the Arabic translation of A. J. Wensinck's *Handbook of Muhammadan Tradition*:

Were it not for the meticulous attention to the study of hadith on the part of our brothers, the `ulama of India, it would have become extinct in the eastern lands. For it has been debilitated in Egypt, Syria, Iraq, and the Hijaz since the 10th century of the hijra [16th century CE], reaching its nadir towards the beginning of the 14th century [i.e., the late 19th century CE].⁴⁷

Rida's concern in such instances was not so much to compliment the Indian scholars as to castigate the Azhar for its lack of attention to hadith, with the result, he

⁴⁴ Nathan J. Brown, *The Rule of Law in the Arab World: Courts in Egypt and the Gulf* (Cambridge: Cambridge University Press, 1997), 23–92.

⁴⁵ Quoted, from an 1896 note by Cromer, in Brown, *The Rule of Law*, 38.

⁴⁶ This is not to say, however, that Egypt, in the age of `Abduh and Rida, did not have its own sophisticated defenders of taqlid. On this, see Indira Falk Gesink, *Islamic Reform and Conservatism: Al-Azhar and the Evolution of Modern Sunni Islam* (London: I. B. Tauris, 2010).

⁴⁷ Muhammad Rashid Rida, "Muqaddimat al-kitab," in A. J. Wensinck, *Miftah kunuz al-sunna*, trans. Muhammad Fu'ad `Abd al-Baqi (Lahore: Suhayl Academy, 1987; first published from Cairo: Matba'at Misr, 1934), p. "waw." On Rida's relations with the Dutch Orientalist Wensinck, see Ryad, *Islamic Reformism*, 37–41.

said, that preachers at the Azhar mosque and elsewhere were quite incapable of adequately distinguishing between reliable and unreliable hadith reports.⁴⁸ Although he had an axe to grind, Rida's comment may be taken to suggest that South Asian partisans of taqlid were considerably more confident of their scholarship than may have been the case with their Egyptian counterparts.

Elsewhere, for instance in Indonesia in the early twentieth century, a resurgence of hadith scholarship accompanied a new openness to the idea and to the practice of ijthihad in reformist and modernist circles.⁴⁹ The Ahl-i Hadith of South Asia had likewise made their commitment to hadith the basis of their appeal to ijthihad. However, the Deobandis were as committed to the study of hadith as were their opponents and were in no mood to cede it to them. Instead, these Deobandis put their own formidable scholarship in the service of *defending* their adherence to the Hanafi school of law and showing the concordance between hadith and Hanafi norms, which is precisely what had so annoyed Rida on his visit to Deoband. As noted earlier, this did not necessarily rule out ijthihad, although it did divest it of the promise that a Salafi might have seen in it. Kashmiri is said to have remarked that he was capable of ijthihad in the sense that he knew the arguments and proofs underlying particular legal norms. He *could* reason on the basis of these proofs to arrive at legal rulings; but, in each instance, his own, independent reasoning tended to lead him to results that had already been reached by earlier Hanafi jurists.⁵⁰ Once again, Rida would not have been impressed with statements like these, although it is worth noting that Shah Wali Allah had expressly recognized such reasoning as a valid form of ijthihad.⁵¹

Finally, we should note that the state has had a considerably freer hand in regulating the religious establishment in many Middle Eastern and North African societies than has been the case in South Asia. Leaving aside detailed historical and contextual reasons for this, the lack of any central religious institution in South Asia that is even remotely akin to al-Azhar in Egypt or, for that matter, to the position of the Egyptian grand mufti has an important explanatory role here. A long history of government involvement in religious education and related matters was made

⁴⁸ A very different assessment is provided in a 1915 secret memorandum by Mark Sykes, who spoke of "the extreme ignorance of Indian Mohammedans as a whole of Islamic theological doctrine as taught in the schools and universities of El Azhar, Damascus, Constantinople and Kairawan." He went on to observe that "the Turkish Ulema are a learned and cultivated body of well-trained clergy with considerable prestige, whereas the Indian old school Moslems are disorganized, atrophied, and feeble so far as learning is concerned." Memorandum, dated October 28, 1915, attached to the letter from Mark Sykes to C. B. Callwell, November 15, 1915, FO 882 (Arab Bureau Papers). Sykes, an influential advisor to the British government on Middle Eastern affairs, was not well-informed on Indian matters, but he was not alone in such views.

⁴⁹ R. Michael Feener, *Muslim Legal Thought in Modern Indonesia* (Cambridge: Cambridge University Press, 2007), 36–7.

⁵⁰ See Muhammad Tayyib, "Nur al-anwar al-ustadh al-Sayyid Muhammad Anwarshah al-Kashmiri . . .," in Mas'udi, ed., *Taswir-i Anwar*, 374.

⁵¹ Wali Allah, *Iqd al-jid*, 3.

possible in Egypt precisely by the existence of a prestigious central institution that, although far from monolithic, was nonetheless susceptible to state regulation. New avenues for modernist *ijtihād* could be opened through state prodding, not least by bringing pro-*ijtihād* scholars to the helm of the religious establishment. `Abduh, the grand mufti, was one such scholar of course, and Muhammad Mustafa al-Maraghi, a contemporary of Rida who served twice as the Shaykh al-Azhar (1928–9, 1935–45), was also a strong proponent of *ijtihād*.⁵² In subsequent decades, a succession of leading Egyptian scholars, from Mahmud Shaltut – the Shaykh al-Azhar in the 1960s – to `Ali Jum`a, the current Grand Mufti of Egypt (2003–), have continued to endorse the necessity and, in terms of qualifications, the practical possibility of *ijtihād*.⁵³

A relative concentration of authority, coupled with greater governmental involvement in the regulation of religious life, helps explain why even those among the Egyptian `ulama who may have had misgivings about particular initiatives could be coaxed into going along with modernist *ijtihād* or perhaps marginalized rather more effectively than in South Asia. A 1937 report by a delegation of Azhar `ulama who had visited India a year earlier takes it for granted that the Azhar had already been definitively reformed.⁵⁴ (The reformist Maraghi had recently taken office for the second time, and the report exudes the optimism of that moment, although the massive reorganization of the Azhar still lay several decades in the future.) Its assessment that the Deoband madrasa “continues on a path that had been followed at the Azhar *about a century ago*”⁵⁵ gives no hint of any lingering discontent at al-Azhar, let alone the fact that Rida (d. 1935) had been severely castigating it until just a few years earlier. My point is not that the claim about Azhar reform was hyperbolic, which it was; it is rather that making such claims with reference to Egypt was meaningful in a way that making them about India was not. A casual remark by Qari Muhammad Tayyib (d. 1983) – who served for several decades as the principal (*muhtamim*) of the Dar al-`Ulum madrasa at Deoband (1929–82) – on his return from a visit to Egypt is equally illuminating. Asked about his impressions of the country, he said he did not know if there was anything that, from the Egyptian perspective, the shari`a *disallowed*.⁵⁶ The comment evokes a

⁵² Muhammad Mustafa al-Maraghi, *al-Ijtihad fi'l-Islam* (Cairo: al-Maktab al-fanni, 1959); cf. Qaradawi, *Ibn al-qarya*, 1: 198–9. On Maraghi, see Francine Costet-Tardieu, *Un réformiste à l'université al-Azhar: Oeuvre et pensée de Mustafa al-Maraghi* (Paris: Karthala, 2005); Brunner, “Education.”

⁵³ Mahmud Shaltut, *al-Islam: `Aqida wa shari`a* (Cairo: Dar al-shuruq, 1972), 567–70; `Ali Jum`a, *Aliyyat al-ijtihād* (Cairo: Dar al-riṣala, 2004).

⁵⁴ Cf. “Taqrir ba`that al-Hind,” *Majallat al-Azhar*, part 5, 8/8 (1937), 586–7, 594–6. I am grateful to Amin Venjara for drawing my attention to this work.

⁵⁵ *Ibid.*, 586.

⁵⁶ Quoted in Khalid Sayf Allah Rahmani, “Maqasid-i shari`at awr na`e masail,” in *Maqasid-i shari`at: Ta`aruf awr tatbiq* (Delhi: IFA Publications, 2004), 299. This refers presumably to Tayyib’s visit to Egypt in 1963, where he had participated in a conference under the auspices of the Academy of Islamic Research. See Ridwi, *Ta`riḫ-i Dar al-`Ulum Deoband*, 1: 379–82. Compare Rashid Rida’s critique of the Egyptian lawyer Ahmad Safwat for advocating a rethinking of the foundational texts

familiar anxiety on the part of many South Asian `ulama that a combination of government regulation of their institutions and self-serving religious justifications for change would stop at nothing short of divesting God's law of any stable or recognizable content.

IJTIHAD AND THE INSTITUTIONALIZATION OF AUTHORITY:
THE ARAB MIDDLE EAST

Even as the `ulama have been more resistant to state regulation in South Asia than in the Middle East, the modern state everywhere has had a profound, if not always a direct, effect on the madhhab, its practices, and its fortunes. The autonomy of the madhhab, long jealously guarded by the `ulama, is scarcely sacrosanct in the face of the overarching claims of the postcolonial state and its legislative initiatives, and this, as Tayyib had noted, even when such initiatives are clothed in the garb of Islamic law. Many legislative initiatives are often justified by the rhetoric of necessity (*darura*) and the common good (*maslaha*), which requires going beyond the purview of any particular school of law, choosing among varied doctrines, and enacting new laws in the name of *ijtihad*. As the modernizing governing elite have invoked it, *ijtihad* has often been presented not just as the immediate justification for a particular piece of legislation or a judicial decision but rather as the panacea for *all* conceivable ills. Such rhetoric, influential among the modern educated, has frequently been derided by the `ulama, especially in South Asia. Yet the `ulama, too, have come to be increasingly exposed to modern, Western forms of knowledge, and given the fact that they seek part of their audience among those educated at westernized institutions of learning, many even among the more conservative scholars are no longer immune to the appeal of the language of *ijtihad*.

Nothing seems to have done more in facilitating the reentry of *ijtihad* into `ulama circles than the idea of *ijtihad* as a *collective* venture. While *ijtihad* has typically been the work of an individual jurist qualified for the task⁵⁷ – in his own estimation and in that of others – the twentieth century saw an increasing trend toward making it a collaborative exercise. As observed in the previous chapter, Rashid Rida had viewed the legislative assembly as the site for collective *ijtihad*, and Muhammad Iqbal had similarly proposed that the modern legislature could serve as the arena for developing a new consensus on particular issues of Islamic law. From this vantage, a popularly elected legislature represents the marriage of an evolving *shari`a* with parliamentary democracy, rendering Islamic law simultaneously an expression of

in accordance with changing societal needs: “. . . there remains nothing forbidden that cannot be committed legally by whoever claims authorization by virtue of what he considers the intended meaning of the Qur`anic prohibitions. . . .” *al-Manar* 23 (1922): 546. I follow Kerr's translation of this passage: *Islamic Reform*, 206.

⁵⁷ Hallaq, *Shari`a*, 110.

divine *and* popular will. From the perspective of the more conservative `ulama, this is not a desirable marriage, however. For it suggests to them, as it does to many an Islamist, that God's law is being made subject to the approval of the people. Furthermore, as `ulama have often complained, most members of a legislative assembly are typically unschooled in the Islamic legal tradition so that matters relating to it can hardly be entrusted to their dubious wisdom.

Yet, if many `ulama have been suspicious of the legislative assembly as the arena of collective ijtiḥad and of consensus, they have been considerably more receptive to the idea of collective ijtiḥad itself and, more broadly, of institutionalized loci for the issuing of fatwas. This has especially been the case when the process of arriving at collective and/or institutionalized forms of ijtiḥad has taken place under their own oversight. An early example of such institutionalized authority is represented by the Dar al-Ifta (Fatwa Centre) of Egypt, established ca. 1895 with the grand mufti at its head.⁵⁸ Another institution – with claims to collective ijtiḥad – is the Academy of Islamic Research (*Majma` al-buhuth al-Islamiyya*), established in 1961 as part of the Azhar's reorganization that year. The academy is required to have a certain number of non-Egyptian `ulama among its members, although it has remained closely tied – like the Azhar-leadership itself – to the policies of the Egyptian state.⁵⁹ In India, a Dar al-Ifta was established at the Deoband madrasa two years before the Egyptian institution of that name,⁶⁰ and although any particular fatwa was still typically issued by a single jurisconsult (sometimes with endorsements from other scholars), the fatwas in question now also carried the imprimatur, and the collective authority, of the madrasa. Deoband's Dar al-Ifta has yet to present its fatwas as representing "ijtiḥad." What is important nonetheless is the institutionalized locus of authority, and this, in recent years, has been extended by other Deobandis to ijtiḥad as well.

Two transnational bodies, both sponsored by Saudi Arabia and each part of a pan-Islamic organization, are also worth mentioning as sites for collective fatwas and collective ijtiḥad. The first is the fiqh academy (*al-Majma` al-fiqhi al-Islami*) of the Muslim World League, an organization established in 1962 primarily as a counterweight to pan-Arabism and Arab socialism promoted by President Nasser of Egypt. The fiqh academy, established in 1977 as part of the Muslim World League and headquartered in Mecca, brings together leading Muslim scholars from across the world to examine varied legal questions and to issue judgments based on their collective deliberation. Another international fiqh academy (*Majma` al-fiqh al-Islami al-duwali*), established in 1983 and based in Jeddah, is part of the Organization of Islamic Conference (OIC). Membership of the latter fiqh academy

⁵⁸ Jakob Skovgaard-Petersen, *Defining Islam for the Egyptian State: Muftis and Fatwas of the Dar al-Ifta* (Leiden: Brill, 1997), 100–45.

⁵⁹ On the academy, see *ibid.*, 186–8.

⁶⁰ Metcalf, *Islamic Revival*, 146.

is based on a combination of scholarly accomplishment and the need to give representation to various member countries of the OIC.

Although transnational in their composition and including scholars committed to a variety of legal approaches and commitments, both of these fiqh academies are dominated by Salafi scholars. Most Saudis adhere to the Hanbali madhhab, but a Salafi approach to the derivation of legal norms tends to guide the work of the Saudi Hanbali scholars. This is not the sort of reformist Salafism espoused by Muhammad `Abduh and Rashid Rida, though the idea of *ijtihad* – and, at these fiqh academies, of collective *ijtihad* – remains prominent in the work of the scholars.⁶¹ So does the idea of the overarching purposes or goals of the *shari`a* (*maqasid al-shari`a*). The influential medieval jurist Ghazali had argued, as did many others following in his footsteps, that the *shari`a* is concerned with the promotion of certain key matters, principally religion, life, intellect, progeny, and property.⁶² As understood by the modern-day successors of these medieval jurists, the protection of these human interests, themselves arrived at through a process of induction in light of the totality of Qur`anic teachings, can modify specific legal rulings even as these fundamental concerns can serve as the basis for deriving new legal norms through *ijtihad*. The Saudi-sponsored fiqh academies have tended to limit themselves to rather conservative rulings on a relatively small number of issues. But the methodology through which they have arrived at and justified their rulings is potentially open-ended.

The Saudi-based international fiqh academies have served as both model and foil for institutions elsewhere. Prominent among these are two international associations that Yusuf al-Qaradawi has helped found, as well as an important Indian initiative. A few comments on Qaradawi's views on *ijtihad* are in order, however, before proceeding further.

Like Rida, Qaradawi has long been an advocate of *ijtihad*, which he understands simply as “the derivation of legal rulings from particular indicants [in the foundational texts].”⁶³ He concurs with Rida in thinking that this *ijtihad* is not an excessively onerous undertaking – indeed, no more so than what is involved in studying toward advanced degrees at modern institutions of learning.⁶⁴ At the

⁶¹ See the resolution on *ijtihad* passed by the Mecca-based fiqh academy of the Muslim World League in Rabitat al-`alam al-Islami, *Qararat al-majma` al-fiqhi al-Islami bi-Makka al-mukarrama, al-dawrat min al-ula ila al-sadisa` ashara . . . 1977–2002* (N.p., n.d. [ca. 2002]), 167–70. Interestingly, *ijtihad* was not specifically mentioned at the time of the founding of this fiqh academy in the context of the legal sources and methods that were to guide its juridical work. See Skovgaard-Petersen, *Defining Islam*, 192. Too much should probably not be read into this omission, however.

⁶² al-Ghazali, *al-Mustasfa*, 1: 287. The order in which these overarching purposes of the *shari`a* are listed here is Ghazali's. Also see Qaradawi, *al-Siyasa al-shar`iyya*, 76–80, esp. 80. On the idea of *maqasid* in Sunni legal theory, see Bernard Weiss, *The Spirit of Islamic Law* (Athens: University of Georgia Press, 1998), 78–87, 145–71; Hallaq, *Islamic Legal Theories*, 89–90, 112–13, 168–74.

⁶³ Yusuf al-Qaradawi, *al-Ijtihad al-mu`asir bayna'l-indibat wa'l-infirat* (Cairo: Dar al-tawzi` wa'l-nashr al-Islamiyya, 1994), 14.

⁶⁴ *Ibid.*, citing Rida, *Tafsir al-manar*, 5: 205.

same time, Qaradawi has been considerably more circumspect than either Rida or many other Salafis in his attitude toward the medieval schools of law. They ought to carry no binding authority for Muslims, he argues, and going back to the teachings of the foundational texts is an effective way of easing the demands religion makes on the believer rather than overburdening him with them. Yet he has also criticized those who would make sharp distinctions between “shari`a” and “fiqh” to the effect that while the shari`a is divine law, as enunciated in the foundational texts, fiqh is merely a product of human efforts and can therefore be set aside. To Qaradawi, no clear distinction between the two is possible, for fiqh norms are grounded in the foundational texts, and approaching those texts in isolation from the long history of juridical and exegetical debates on them can be profoundly misleading. “If we neglected all of fiqh because it was [merely] fiqh, that would entail the neglect of what we call the shari`a, for the latter is only found within the former.”⁶⁵ But if the work of the earlier jurists is not to be jettisoned *as a corpus*, it is, Qaradawi insists, not to be allowed more weight than it merits in shaping Islamic legal thought.

While encouraging the *ijtihad* of individual jurists, Qaradawi has spent considerable energy promoting its collective enactment. He has been a member of the aforementioned fiqh academy of the Muslim World League, and although a harsh critic of the intellectual mediocrity of al-Azhar’s Academy of Islamic Research, he became a member of this body in 2008.⁶⁶ He has also played a leading role in the establishment of new institutional loci for collective *ijtihad*. One of these is the European Council for Fatwa and Research (ECFR), founded in 1997 and based in Dublin. Qaradawi has taken a keen interest in developing a “jurisprudence of Muslim minorities” – that is, the interpretation of legal norms in ways that cater specifically to Muslims living as minorities, especially those in Western societies. As its name suggests, the ECFR is dedicated to this effort: it seeks “to issue collective fatwas addressing the needs of Muslims in Europe, to solve their problems, and to help order their interaction with European institutions in light of the rules of the shari`a and its purposes.”⁶⁷ The scholars of the ECFR represent a variety of juridical schools,⁶⁸ yet they are to strive toward the creation of a new consensus – “the unification of their juridical views on important legal matters.”⁶⁹ A collective *ijtihad*, as embodied in collective fatwas, is envisioned as representing this consensus.

⁶⁵ Qaradawi, *al-Ijtihad al-mu`asir*, 122–4; quotation at 123.

⁶⁶ For his criticism, see Yusuf al-Qaradawi, *Risalat al-Azhar* (Cairo: Maktabat Wahba, 1984), 121–2. On his membership of the academy, see “al-Qaradawi yusharik fi mu`tamar majma` al-buhuth al-Islamiyya,” http://www.qaradawi.net/site/topics/article.asp?cu_no=2&item_no=6859&version=18tem... (accessed March 11, 2009).

⁶⁷ <http://www.e-cfr.org>, “al-Nizam al-asasi,” article 4 clause 2 (accessed November 14, 2009).

⁶⁸ *Ibid.*, article 15.

⁶⁹ *Ibid.*, article 4 clause 1. On the ECFR, see also Alexandre Caeiro, “The Power of European Fatwas: The Minority Fiqh Project and the Making of an Islamic Counterpublic,” *International Journal of Middle East Studies* 42 (2010): 435–49.

Qaradawi's other major venture in institutionalizing *ijtihād* is the International Union of Muslim Scholars. We will return to this institution in a later chapter. Suffice it to say here that, alongside the quest for unity and the preservation of an Islamic identity, the idea of *ijtihād* occupies a prominent place in its objectives, too. As its constitution puts it, it is through "credible forms of contemporary *ijtihād*, emanating from reliable sources and from trustworthy 'ulama, that the suitability of Islam for all times and places is realized and the responsiveness of the rules of the shari'a to new needs and evolving circumstances in the lives of individuals, families, and societies is assured."⁷⁰ Both individual and collective forms of *ijtihād* would count as "credible" here, with the 'Ulama Union providing a new forum for the latter.

IJTIHAD AND THE INSTITUTIONALIZATION OF AUTHORITY: SOUTH ASIA

A decade or so after the emergence of the first Saudi-sponsored *fiqh* academy in Mecca but several years before the first of Qaradawi's aforementioned organizations, India, too, saw the establishment of a similar organization – the Islamic Fiqh Academy. Given the long-standing reservations many Deobandi and other South Asian 'ulama have had toward *ijtihād*, the establishment of such an organization is considerably more remarkable in India than it is in Arab Salafi circles. As late as the mid-1970s, Qari Muhammad Tayyib had published a spirited and sophisticated defense of *taqlid*, and many Deobandis continue to share those views.⁷¹ India's Fiqh Academy has sought to chart a different path, however, which tells us much about changing attitudes toward *ijtihād*, about new articulations of religious authority, and about how such articulations relate to their local contexts. For all these reasons, this organization deserves a close look.

The moving spirit behind the establishment of the Fiqh Academy in 1989 was Qadi Mujahid al-Islam Qasimi (d. 2002), a Deobandi scholar from Bihar in eastern India. Since 1921, Bihar has been home to the *Imarat-i shar'iyya*, established at the initiative of a scholar named Abu'l-Mahasin Muhammad Sajjad (d. 1940), to meet the needs of Muslims in the absence of government-appointed judges.⁷² Qasimi served for many years as a qadi and later as the deputy head of this nonofficial network of Islamic courts. In the final years of his life, he had also presided over the All-India Muslim Personal Law Board (AIMPLB), founded in

⁷⁰ <http://www.iiumonline.net/articles/info/article02.shtml>, "al-Nizam al-asasi lil-ittihad al-'alami li-'ulama al-muslimin," article 27 (accessed March 31, 2009).

⁷¹ Tayyib, *Ijtihad awr taqlid*. For a discussion of this work, see Ebrahim Moosa, "History and Normativity in Traditional Indian Muslim Thought," in Carl W. Ernst and Richard C. Martin, eds., *Rethinking Islamic Studies: From Orientalism to Cosmopolitanism* (Columbia: University of South Carolina Press, 2010), 281–301.

⁷² On Sajjad, see Ebrahim Moosa, "Shari'at Governance in Colonial and Postcolonial India," in Metcalf, ed., *Islam in South Asia in Practice*, 317–20.

1973 to oversee matters relating to Islamic law in India and, in particular, to prevent perceived encroachments on Muslim personal law by Indian legislative and judicial institutions.

When in 1985 the Supreme Court of India ruled that a divorced indigent Muslim woman named Shah Bano could claim maintenance from her former husband for the duration of her life, rather than only for the three-month long “waiting period” mandated by Islamic law, it was the AIMPLB that took up the challenge of defending the norms of Muslim personal law. In its decision, the Supreme Court had also reaffirmed the need for a uniform civil code for all citizens of India, which the AIMPLB saw not just as a challenge to the shari‘a but also to the very identity of Muslims in postcolonial India. It spearheaded a nationwide campaign to have the Supreme Court verdict set aside, an effort that successfully culminated in the passage of the Muslim Women (Protection of Rights on Divorce) Act by the Indian parliament in 1986. The very success of this agitation brought much bad press to the AIMPLB, however, with critics ranging from those castigating it for its hostility to improving the lot of Muslim women to those viewing it as the embodiment of the Muslims’ failure to align their interests with those of the greater Indian nation. As the career of Mujahid al-Islam Qasimi suggests, there is much overlap between the AIMPLB and the Fiqh Academy. But the latter has also sought to cultivate a notably less conservative profile than the AIMPLB.⁷³

Rather than merely defend Islamic law, the Fiqh Academy seeks “to address problems arising from economic, social, political, industrial and other changes in an Islamic framework.” This is a framework defined by “the Qur’an and the Sunna, the views of the companions [of the Prophet], and the opinions of the ‘ulama forbears (*aqwal ‘ulama al-salaf*).”⁷⁴ In line with the views of many earlier jurists, Mujahid al-Islam Qasimi understood *ijtihad* as “the fullest effort, on the part of those capable of deriving legal rulings from specific textual indicants, to arrive at suitable solutions to such new problems as are unregulated by either the foundational texts or by consensus.”⁷⁵ Solutions to the problems in question are to be sought “in light of the principles and the purposes of the shari‘a.”⁷⁶ Islamic law is to be discussed in “a modern and contemporary idiom” (*uslub hadith wa mu‘asir*),⁷⁷ and “collective efforts” are to be made in addressing not only contemporary issues but also “those problems of [the] past which demand rethinking

⁷³ On the AIMPLB, see Justin Jones, “‘Signs of Churning’: Muslim Personal Law and Public Contestation in Twenty-first Century India,” *Modern Asian Studies* 44 (2010): 175–200. Jones argues that this organization has been less rigid in its positions than its critics allege.

⁷⁴ <http://ifa-india.org/arabic/aimsObject.html>, “Ahdaf al-majma” (accessed November 15, 2009).

⁷⁵ al-Qasimi, *Fiqh al-mushkilat*, 88.

⁷⁶ <http://ifa-india.org/arabic/aimsObject.html>, “Ahdaf al-majma” (accessed November 15, 2009).

⁷⁷ *Ibid.* Also see Islamic Fiqh Academy, *Majma‘ al-fiqh al-Islami al-Hind*, 5.

and research in the changing circumstances.”⁷⁸ The aspiration to collective *ijtihad*, although not explicitly mentioned among the formal objectives of the Fiqh Academy, is very much part of the discourse of the academy’s scholars.⁷⁹ Another major concern is to link scholars and scholarly institutions in and outside India to one another and to make their views and writings widely available. As part of its networking effort, the academy has sought to bring together traditionally educated scholars with experts in economics, medicine, and other areas. It has also worked toward encouraging graduates of madrasas to acquire some measure of modern, secular learning and to introduce the graduates of colleges and universities to the traditional Islamic sciences.⁸⁰

These are ambitious goals and it is not quite clear that the leading members of the Fiqh Academy have either the will or the resources to systematically pursue them. Its membership and its goals are also in some tension. Though it prides itself on bringing ‘ulama of different doctrinal orientations together,⁸¹ the Fiqh Academy is dominated by Hanafis and, among them, by the Deobandis. Zafir al-din Miftahi, the academy’s president till his death in 2011, was a leading mufti of the madrasa at Deoband and the editor of the madrasa’s official collection of fatwas. His successor as president, Ni`mat Allah A`zami, is a professor of hadith at the Deoband madrasa.⁸² The influential presence in the academy’s leadership of Hanafi-Deobandis, for many of whom *taqlid* still carries much weight, suggests important constraints on the scope of its *ijtihad*. Yet, as noted, the Fiqh Academy has shown considerable interest in the idea of the overarching purposes – the *maqasid* – of the *shari`a*. Indeed, it has published what purports to be the very first book on this subject in the Urdu language.⁸³ Despite their well-attested place in medieval Islamic legal thought, thinking in terms of *maqasid* is not particularly friendly to the cohesion and authority of any particular school of law for, as noted earlier, the *maqasid* provide the grounds on which to potentially *set aside* a legal school’s particular rulings. For the Fiqh Academy of India, reasoning in terms of the *maqasid* represents not only a highly significant, and increasingly

⁷⁸ See the official website of the Islamic Fiqh Academy: <http://ifa-india.org/English/aimsObjectives.html>, “Aims and Objectives” (accessed October 4, 2008, and November 17, 2009). This particular point is missing – presumably on account of a clerical error – from the Arabic page of the Fiqh Academy’s official website, but it is part of the Arabic brochure: *Majma` al-fiqh al-Islami al-Hind*, 5.

⁷⁹ See, for instance, Mujahid al-Islam Qasimi, “al-Ijtihad al-ijtima’i,” in idem, *Buhuth fiqhiyya min al-Hind* (Beirut: Dar al-kutub al-`ilmiyya, 2003), 6–8 and *passim*. Also see Khalid Sayf Allah Rahmani, “Islamic Fiqh Academy, India: Na’e masa’il ke hall ke silsele main us-ka nuqta-i nazar, tariqa-i kar awr khidmat” in Muhammad Tahir Mansuri, ed., *Ijtima’i ijtihad: Tasawwur, irtiqā awr `amali suratain* (Islamabad: Islamic Research Institute, 2007), 221–65.

⁸⁰ <http://ifa-india.org/arabic/aimsObject.html>, “Ahdaf al-majma’” (accessed November 15, 2009); *Majma` al-fiqh al-Islami al-Hind*, 6–7.

⁸¹ Rahmani, “Islamic Fiqh Academy,” 259.

⁸² <http://www.deoband.net/4/post/2011/5/maulana-nematullah-azmi-elected-president> (accessed June 6, 2011).

⁸³ Khalid Sayf Allah Rahmani, “Muqaddima,” in Islamic Fiqh Academy, *Maqasid-i shari`at: ta`aruf awr tatbiq* (Delhi: IFA Publications, 2004), 10.

fashionable, means of adapting legal norms to change. It points as well to a facet of Salafi influence on the South Asian `ulama. Scholars of the Fiqh Academy have recently completed an Urdu translation of a massive *Encyclopedia of Islamic Law*, published in Arabic between 1987 and 2006 under the auspices of the Ministry of Endowments and Islamic Affairs of the Government of Kuwait.⁸⁴ As its title suggests, this forty-five-volume work ranges broadly over all aspects of the Islamic legal tradition, but it is not committed to any single school of Sunni law. Precisely how the continued devotion to the Hanafi madhhab is to be combined with the sort of Islamic legal ecumenism typified by such works or by the increasing orientation toward maqasid-based jurisprudence remains uncertain, not only to outside observers but probably also to not a few of the `ulama associated with the Fiqh Academy itself.

The fact remains, however, that no other Muslim institution in contemporary South Asia has more consistently called for addressing new legal issues through recourse to collective ijtiḥad than has the Islamic Fiqh Academy. Nor has any other organization attended to a range of issues comparable to those taken up by the Fiqh Academy. These have included, among many others, medical insurance; the question of coerced marriage; the permissibility of adding stipulations on behalf of the bride to her marriage contract; interest-free banking; euthanasia; terrorism; questions relating to commerce; charitable endowments; and medical ethics.⁸⁵

The academy adopts an elaborate procedure in trying to arrive at its collective ijtiḥad.⁸⁶ An annual conference is organized under its auspices to debate a particular issue, which itself is determined in consultation with prominent religious scholars. A questionnaire relating to the issue at hand is sent to muftis and scholars across India, to select religious scholars abroad, as well as to experts in the relevant secular sciences. The recipients are invited to prepare individual studies in light of this questionnaire, and these are distributed when participants gather at the academy's conference. The key themes of these working papers, their agreements and disagreements, are highlighted in the form of summaries distributed among conference participants. The issues are then debated at considerable length at the conference, after which a subcommittee drafts its recommendations in light both of the papers submitted and of the ensuing discussions. These materials are then published for wider dissemination.

I will provide some specific illustrations of the work of the Indian Fiqh Academy in subsequent chapters. In the remainder of this chapter, I focus instead on the broader significance of the academy as a venture in the institutionalization of

⁸⁴ *al-Mawsu'at al-fiqhiyya*, 45 vols. (Kuwait: Wizarat al-awqaf wa'l-shu'un al-Islamiyya, 1987–2006).

⁸⁵ For a list of its publications in Urdu, English, and Arabic, see <http://ifa-india.org/urdu/publications.html> (accessed November 15, 2009).

⁸⁶ For a useful summary of the academy's modus operandi on which I draw here, see Rahmani, "Islamic Fiqh Academy," 252–6.

authority, and of *ijtihad*. One way to do this is by trying to situate this venture in a number of related contexts.

There can be little doubt that the emergence of *fiqh* academies elsewhere in the Muslim world provides an important model for this Indian venture. Further, and despite the strictures of `Ubayd Allah Sindhi (see Chapter 2), many Indian scholars have been keen to foster ties with Muslim scholars elsewhere as a way of affirming their religious authority *within* India. The career of Sayyid Abu'l-Hasan `Ali Nadwi (d. 1999), a longtime rector of the Nadwat al-`Ulama in Lucknow and a predecessor of Mujahid al-Islam Qasimi as the president of the AIMPLB, provides one important illustration of such assertions of authority. Ali Nadwi was unusual even among his fellow “Nadwis” in the extent of his ties with Arab Middle Eastern scholarly and other circles. He was an important figure in the Saudi-sponsored effort to deflate, on Islamic grounds, some of the appeal of Arab nationalism being promoted in the 1960s by President Nasser of Egypt, and he served as an early channel for the dissemination of the ideas of the Pakistani Islamist Sayyid Abu'l-A`la Mawdudi (d. 1979) in the Arab world.⁸⁷ He exercised a significant influence on Sayyid Qutb and then on Qaradawi, who wrote an entire book on Nadwi’s thought and his own relationship with him.⁸⁸

`Ali Nadwi played an important role in helping overturn the Shah Bano decision of the Indian Supreme Court, and there is little doubt that the Indian government’s informal recognition of his authority had much to do with his well-established stature abroad.⁸⁹ The Fiqh Academy has sought to continue in `Ali Nadwi’s footsteps. A number of its publications are in the Arabic language, clearly intended for an audience in the Arab Middle East. And the roster of its honorary members has included, among others, `Abd Allah b. `Abd al-Muhsin al-Turki, the secretary-general of the Muslim World League; Salih b. Zabin al-Marzuqi, the secretary-general of the Muslim World League’s *fiqh* academy; Muhammad Habib b. al-Khuja (d. 2012), a former secretary-general of the OIC’s *fiqh* academy; Muhyi al-din al-Qaradaghi, the head of the department of *fiqh* and theology at Qatar University and now the general secretary of the `Ulama Union; `Ali Jum`a, the grand mufti of Egypt; and Yusuf al-Qaradawi.⁹⁰

There surely is a more pragmatic concern, too, in fostering relations with the Arab Middle East. As a community, Muslims are among the most impoverished

⁸⁷ See Zaman, “Arabic.”

⁸⁸ Yusuf al-Qaradawi, *al-Shaykh Abu'l-Hasan `Ali Nadwi kama `araftuhu* (Damascus: Dar al-qalam, 2001). Graduates of the Nadwa have returned the favor by writing on Qaradawi. See, in particular, Muhammad Akram Nadwi, *Kifayat al-rawi `an al-allama al-shaykh Yusuf al-Qaradawi* (Damascus: Dar al-qalam, 2001).

⁸⁹ Zaman, *The Ulama*, 167–70.

⁹⁰ For the full list of honorary members, see <http://ifa-india.org/arabic/orgStructures5.html> (accessed July 17, 2009).

and marginalized of all Indian citizens today.⁹¹ Ties with well-connected and influential Arab scholars contribute not only to the stature of Indian scholars at home but also to possibilities of financial patronage. This can take the form of employment opportunities for enterprising Muslims in oil-rich Middle Eastern states, which, for decades, has remained an important means of economic advancement for many people. On a more limited but scarcely inconsequential level, Middle Eastern patronage can also facilitate Islamic scholarship in India. Deobandi and other madrasas have long depended on small financial contributions from people in the local community. Such community support allows many a madrasa to survive, although not far above the subsistence level, and to retain its independence from governmental control; but it also makes any serious scholarly projects unfeasible for any but the largest of these institutions. The Fiqh Academy, for its part, has a significant publication program, which involves the publishing not only of its conference proceedings but also of many other works, including the fatwas of contemporary and earlier `ulama.⁹² By far the most ambitious of its recent projects was the Urdu translation of the aforementioned *Encyclopedia of Islamic Law*. The publication of the first three translated volumes was marked by a ceremony in Delhi in October 2009, which included the Muslim vice president of the Republic of India, Hamid Ansari, as well as Kuwait's ambassador to India.⁹³

The Indian context of the Fiqh Academy goes well beyond actual or potential opportunities for financial patronage, which, in any case, should not be exaggerated. The significance of the tumultuous time at which this organization was established is worth noting here. The Shah Bano controversy is still fresh in public memory today, more than a quarter century after the Supreme Court ruled on the matter, but it was an especially polarizing issue in the aftermath of the Court's verdict and the ensuing AIMPLB-led Muslim protests. As observed earlier, the Fiqh Academy, founded not long after this controversy, can be viewed as an effort to put a different face on the Indian Muslim commitment to the shari`a – one acknowledging the need to *rethink* particular norms and to do so in a “contemporary idiom.”

The political context in which the Fiqh Academy was founded was also marked by the ascendancy of Hindu nationalism, with its insistence that Muslims did

⁹¹ See Government of India, *Social, Economic and Educational Status of the Muslim Community of India: A Report* (Delhi: Prime Minister's High Level Committee, Cabinet Secretariat, 2006; reprinted by Indian Muslim Council, USA, n.d.).

⁹² <http://ifa-india.org/arabic/aimsObject.html>, “Ahdaf al-majma” (accessed November 15, 2009). Although not published under the auspices of the Fiqh Academy, a medieval Hanafi work edited by Mujahid al-Islam Qasimi, the founder of the academy, is worth mentioning here. This is Muhammad b. Muhammad Khatib al-Ashfurqani (d. ca. 1248) *Sunwan al-qada wa `unwan al-ifta*, 4 vols. (Kuwait: Wizarat al-awqaf, 2001).

⁹³ “Fiqh Encyclopedia Biggest Work of this Century in Fiqh: Hamid Ansari,” http://www.twocircles.net/2009oct24/fiqh_encyclopedia_biggest_work_century_fiqh_ha... (accessed November 15, 2009). Twelve volumes have been published so far: *Mawsu`a fiqhiyya* (Delhi: Islamic Fiqh Academy, 2009). All twelve of these volumes are also available on CD.

not belong in India and that the wrongs of centuries of Muslim rule in India needed to be rectified. Under the leadership of the Vishwa Hindu Parishad (VHP) and the Bharatiya Janata Party (BJP), Hindu nationalists claimed that the site on which a sixteenth-century mosque, the Baburi Masjid, stood in the north Indian town of Ayodhya was the birthplace of the Hindu god Rama, and they demanded that in its place a temple be built there in his honor. This demand became the basis of a carefully orchestrated India-wide campaign that resulted in numerous Hindu-Muslim riots and culminated, in December 1992, in the destruction of the Baburi Masjid. In 1989, the year of the founding of the Fiqh Academy, the country was already in the throes of this Hindu nationalist agitation, with the VHP leaders touring the country to collect bricks for the construction of the Hindu temple in Ayodhya.⁹⁴ The rise of Hindu nationalism was not the cause of the declining fortunes of Muslims in postcolonial India; but it exacerbated Muslim marginalization, as did the perception, in the aftermath of the Shah Bano controversy, that Muslims were insufficiently committed to their Indian identity.

With its self-conscious ties with Arab scholars, the Fiqh Academy inadvertently contributes to the perception that Indian Muslims have not stopped looking elsewhere for identity and orientation. Its self-conscious goal, however, is to forge a new structure of religious authority *in* India. It has had many predecessors in this regard. The Dar al-Ifta of Deoband is one example, as is the Imarat-i shar'iyya of Bihar. In the late nineteenth century, Wilfrid Scawen Blunt – an eccentric Englishman who knew Jamal al-din al-Afghani and Muhammad `Abduh, was an ardent advocate of a revived non-Turkish caliphate, and had traveled through India in 1883–4 – had promoted the idea of a “Mohammedan University” in Hyderabad not just for educational purposes but specifically as a locus of Islamic authority, to serve as “the fountain head of orthodox opinion.”⁹⁵ And in the aftermath of the demise of the Ottoman caliphate, more than one Indian scholar had toyed with the idea of being recognized as the supreme religious authority, the Imam al-Hind or the Shaykh al-Islam – one who would be, as Abu'l-Kalam Azad had put it, a “man of vision and ijihad.”⁹⁶ More recently, the All India Muslim Personal Law Board

⁹⁴ Irfan Ahmad, *Islamism and Democracy in India: The Transformation of the Jamaat-e-Islami* (Princeton: Princeton University Press, 2009), 167–8.

⁹⁵ Wilfrid Scawen Blunt, *India Under Ripon: A Private Diary* (London: T. Fisher Unwin, 1909), 329. The idea eventually took the form of Osmania University, established in Hyderabad in 1918, though without any of the religious aspirations that Blunt had envisioned for it. See Kavita Saraswathi Datla, “Making a Worldly Vernacular: Urdu, Education, and Osmania University, Hyderabad, 1883–1938,” PhD dissertation, University of California, Berkeley, 2006, especially 18–27. On Blunt, see also Mark Sedgwick, *Muhammad Abduh* (Oxford: Oneworld, 2010), 45–56; Gregory Claeys, *Imperial Sceptics: British Critics of Empire, 1850–1920* (Cambridge: Cambridge University Press, 2010), 36–43.

⁹⁶ Azad, *Mas'ala-i khilafat*, 150, 152. Also see Gail Minault, *The Khilafat Movement: Religious Symbolism and Political Mobilization in India* (New York: Columbia University Press, 1982), 153–4.

has aspired to both represent the interests of the Muslims of India and to provide authoritative guidance to them. The Fiqh Academy is the most recent and, in many ways, the most sophisticated articulation so far of claims to institutionalized Islamic authority in India.

In the post-Shah Bano and post-Baburi Masjid India, the Fiqh Academy has sought to reassure the Muslims of India that the `ulama are attentive to their problems; that these problems *can* be addressed by drawing on Islamic legal resources; that particular legal norms can, where necessary, be reconsidered in light of changing needs; that the `ulama are concerned not only with narrowly religious problems, relating to matters of belief and ritual, but also with a range of contemporary social and economic issues; and that they are willing to work both with rival `ulama and with secular experts in addressing these issues.

Much like Qaradawi's International Union of Muslim Scholars on a global scale, the Fiqh Academy stands for an affirmation of Muslim identity in its Indian context. As should be clear from the foregoing, it also stands for an alternative Muslim leadership, one that remains distinct, at least in institutional terms, from the more traditionalist `ulama. The alternative it seeks to offer is not just to the more conservative `ulama voices, however, but also to the strident and, indeed, militant fringe that has emerged within the Muslim community, partly in response to the excesses of Hindu nationalism.⁹⁷ Yet it is worth stressing that the Fiqh Academy is an organization of the `ulama. Again like Qaradawi, who has often castigated the anachronistic ways of many fellow `ulama while arguing for the `ulama's continuing centrality to Muslim life and thought, the work of the Fiqh Academy is an affirmation of the `ulama's collective authority. Ijtihad is both an expression of, and a means to, this authority.

THE RHETORIC OF IJTIHAD (AND TAQLID)

In a world that has echoed for a century and a half with calls for ijihad to reform this or that aspect of Islam or for an Islamic Reformation, the `ulama's adoption of the language of ijihad represents a quest for some degree of discipline in how the religious tradition is interpreted. Where the discourse of taqlid had long served as a means of maintaining the integrity of the scholarly tradition – of maintaining it *as a tradition* – ijihad has increasingly assumed a similar function. The “containment of disorder in the law,” in the words of legal historian Bernard Weiss, was once thought contingent on a select few being recognized as mujtahids in a school of law, with the vast majority of the school's adherents agreeing to follow their authority

⁹⁷ This militant strand is represented by the Student Islamic Movement of India (SIMI), a group whose origins lie in the Indian Jama'at-i Islami although the latter disowns it. On SIMI, and for the argument that the failings of Indian secularism and the rise of Hindu nationalism have led to the rise of Islamist radicalism in India, see Ahmad, *Islamism and Democracy*.

(taqlid).⁹⁸ In an age in which taqlid has had distinctly pejorative connotations and where the authority of the madhhab has eroded considerably, there is an increasing recognition among many `ulama that ijtiḥad, not taqlid, might be the most effective means for the containment of legal anarchy. As the reformist `ulama see it, this function of ijtiḥad is best performed by them or by those they approve of and in ways they approve of. To relinquish it, for instance on the traditional grounds that the key questions have long been settled and that no one really meets the high standards for undertaking ijtiḥad,⁹⁹ may no longer be an option for many, for the vacuum will then be filled by those the `ulama concur in viewing as altogether unequal to the task. As Mujahid al-Islam Qasimi, the founder of the Fiqh Academy, had put it:

If overstepping the sphere of the incontestables of religion and ignoring the ijtiḥad of the pious forbears (*al-salaf al-salih*) is an unforgivable sin, remaining frozen even in such particulars of the law as are based on the customs of particular times is sheer ignorance of the purposes of the shari`a and indifference to its spirit. If . . . those capable of issuing fatwas and the sincere `ulama do not step forth to address this problem [of stagnation], there is a grave danger that the modernists (*tabaqat al-mutajaddidin*) – the enlightened ones who might be suitable [to the task] and those [merely] dazzled by Western civilization and unequal to the task – will grab the opportunity to play with the religion.¹⁰⁰

Abu `Ammar Zahid al-Rashidi, the president of a leading Deobandi madrasa in Gujranwala, in the Pakistani Punjab, and a member of Qaradawi's International Union of Muslim Scholars, expresses this sentiment even more directly:

The proper answer to those who apparently want to use “ijtiḥad” for the wrong purposes or seem determined to pave the way to waywardness and distortion in the name of ijtiḥad is not to deny the very necessity or importance of ijtiḥad. The right response to them is to introduce the common people (*`awamm*) to the proper meaning of ijtiḥad, to accept its necessity, to expound on its legitimate and practicable forms and . . . to not leave ijtiḥad, or any forum for discussing it, free [for those misusing it]. . . . To leave any such forum only to them, and to not seek an effective means of explaining your own position, is . . . mere escapism from [pressing] problems and difficulties.¹⁰¹

⁹⁸ Bernard Weiss, “The Madhhab in Islamic Legal History,” in Peri Bearman, Rudolph Peters, and Frank E. Vogel, eds., *The Islamic School of Law: Evolution, Devolution, and Progress* (Cambridge: Islamic Legal Studies Program, 2005), 3–4; quotation at p. 3.

⁹⁹ Cf. Tayyib, *Ijtiḥad*, passim.

¹⁰⁰ Mujahid al-Islam Qasimi, “Dirasat fiqhiyya wa `ilmiyya,” in Mujahid al-Islam Qasimi, ed., *Dirasat fiqhiyya wa `ilmiyya* (Beirut: Dar al-kutub al-`ilmiyya, 2003), 226–37, at 234.

¹⁰¹ Zahid al-Rashidi, *Ijtiḥad*, 153–4 (quotes around the word ijtiḥad are in the original). For his membership of Qaradawi's `Ulama Union, see <http://iumsonline.net/articls/info/members.shtml> (accessed April 16, 2008); his name is listed at # 27 in the organization's list of members.

Zahid al-Rashidi's point here is not to exclude the non-`ulama from Islamic legal discussion. In fact, he has often lamented the penchant of fellow `ulama for seeing anything that originates from outside their ranks as a sinister challenge to themselves and to Islam.¹⁰² Even so, from his perspective, as indeed from that of Mujahid al-Islam Qasimi, the language of *ijtihad* is more than a means of expanding the scope of the legal norms, of addressing new problems. It is also a way of preserving the integrity of the sacred law against challengers who are deemed to be ill-intentioned, unlettered in matters of religion, or both. From this perspective, it would no longer suffice to defend *taqlid* by pointing to the excesses of modernist *ijtihad*.¹⁰³ The rhetorical language of *ijtihad* is itself a crucial means for the `ulama to regain some measure of order in their legal tradition and to reclaim their collective authority.

This is not to say, of course, that all defenders of *taqlid* have come to be silenced. *Taqlid* continues to have its proponents, including some highly influential scholars. Notable among these is Mufti Muhammad Taqi `Uthmani (b. 1943), the vice president of the Dar al-`Ulum madrasa of Karachi and one of the more prominent traditionalist scholars of the contemporary Muslim world.¹⁰⁴ Much of Taqi `Uthmani's defense of *taqlid* moves along familiar lines: the idea that modern scholars are but a pale reflection of earlier giants and must therefore follow the paths the latter charted long ago, the fear of modernist excesses, and the concomitant conviction that intellectual and religious anarchy would reign supreme should "everyone" be allowed to engage in *ijtihad*.¹⁰⁵ But he also defends *taqlid* in a more contemporary idiom, by arguing that it amounts to no more than following "experts" in the area of their expertise.¹⁰⁶ From this latter perspective, *taqlid* should make sense to anyone who has ever turned to a specialist for guidance on a particular matter.

Part, at least, of the authority and influence of naysayers like Taqi `Uthmani rests not simply on such contemporary idiom but also, paradoxically, on the affirmation of *taqlid* in an age when it has come to be in considerable disrepute even among fellow `ulama. While some `ulama have striven to reconfigure their individual and collective authority by accommodating themselves to the rhetoric of *ijtihad* – and by trying to reclaim *ijtihad* from its modernist practitioners – others, like Taqi `Uthmani, have based some of their own authority on resisting that tide, in the process presenting themselves as more "authentic" to the tradition than many fellow travelers. Yet even Taqi `Uthmani acknowledges possibilities of *ijtihad* within the framework of *taqlid*,¹⁰⁷ and when it comes to *ijtihad*, he, too, insists that it is

¹⁰² Zahid al-Rashidi, *Ijtihad*, 133.

¹⁰³ This familiar strategy is deployed, for instance, in Tayyib, *Ijtihad*, 62–4. Tayyib here follows Thanawi, *Iqtisad*, 35–6. Cf. Taqi `Uthmani, *Taqlid*, 6, 139–40.

¹⁰⁴ On him, see Zaman, *The `Ulama*, 82–3, 94–6, 134–5.

¹⁰⁵ Cf. Taqi `Uthmani, *Taqlid*, 139–40 and *passim*.

¹⁰⁶ *Ibid.*, 122–3; cf. Zaman, *The Ulama*, 98–102.

¹⁰⁷ Taqi `Uthmani, *Taqlid*, 140–1.

best done as a collective venture.¹⁰⁸ It is also worth noting that he is a member of the International Union of Muslim Scholars founded by Qaradawi and, indeed, a contributor – albeit a distinctly lukewarm one – to a Festschrift published in celebration of Qaradawi’s seventieth birthday.¹⁰⁹

As should be clear from the foregoing, *ijtihad* can mean quite different things to different people. The all-encompassing *ijtihad* that Muhammad Iqbal had in mind has little in common with Anwarshah Kashmiri’s recognition of the spaces that the foundational texts leave vacant to be filled in through continuing juristic exertion. Rida would not have been satisfied with Kashmiri’s view even if he had made the effort to understand it; but Rida would have been at least as suspicious of Iqbal’s radical view of *ijtihad*. Collective forms of *ijtihad* can, for their part, range from conservative restatements of long-established legal verities to potentially far-reaching positions on social, legal, and political matters. The concerns underlying such *ijtihad*, to the extent that they are discernible, can also range from finding new legal solutions in particular local or transnational contexts to revitalizing a sense of Muslim unity to finding new fora for articulations of authority.

It would obviously be worth knowing what specific understandings of *ijtihad* particular figures among the `ulama embrace or disavow. Leaving aside some modernist claims to “absolute *ijtihad*,” it is fair to say that there is considerable variation among them on this question. That the methodological or substantive implications of *ijtihad* in any particular instance are not always clear does not, however, dilute the rhetorical force of the appeal to it. On the contrary, one might well argue that some among the `ulama have made the transition to the language of *ijtihad* so eagerly as to divest *ijtihad* of its luster, at least for some contemporary modernists. The Swiss Muslim intellectual Tariq Ramadan has argued, for instance, that *ijtihad* is no longer sufficient to address the scale of problems Muslims face in the contemporary world and that a more “radical reform” – the title of his 2009 book – is called for.¹¹⁰ Much of Ramadan’s misgivings about *ijtihad* have to do with his sense that it has led only to “adaptive reform,” whereas Muslims today need to rethink their entire legal tradition from the ground up. And, he believes, they need to do this in light both of the overarching purposes at the heart of their foundational texts *and* of other forms of knowledge traditionally thought to lie

¹⁰⁸ *Ibid.*, 141. Occasionally, he has also invoked the need to think in terms of *maqasid al-shari`a*: see Muhammad al-Hamazani, “‘Uthmani: Lastu radiyan `an `amal al-bunuk al-islamiyya illa bi-tatbiq shartayn,” *al-Sharq al-awsat* (London), August 19, 2010.

¹⁰⁹ For his membership of the International Union of Muslim Scholars, see <http://www.iumsonline.net/articles/info/members3.shtml> (accessed April 22, 2008). Taqi `Uthmani is listed here at #373. For his contribution to Qaradawi’s Festschrift, see Muhammad Taqi `Uthmani, “Fadilat al-duktur Yusuf al-Qaradawi kama a`rifuhu,” in *Yusuf al-Qaradawi: Kalimat fi takrimih wa buhuth fi fikrihi wa fiqhii*, 2 vols. (Cairo: Dar al-salam, 2004), 1: 77–80. Also see Epilogue.

¹¹⁰ Tariq Ramadan, *Radical Reform: Islamic Ethics and Liberation* (New York: Oxford University Press, 2009), especially 2–3.

beyond the confines of their religion. What Ramadan seems also to have in mind, although he does not say it in so many words, is that traditionalist, and Salafi, invocations of *ijtihad* have tended to increasingly vacate it of much of its promise, so that a new vocabulary of reform is now in order.¹¹¹

Despite such misgivings, however, at least some of the significance of the language of *ijtihad* may well lie in helping open arenas for debating issues new and old among the *ʿulama*, between the *ʿulama* and other intellectuals, and in the public sphere at large. Irrespective of the specific topics on which possibilities of *ijtihad* have been broached, and quite apart even from questions of method, the *ʿulama*'s increasing acknowledgment of the need for *ijtihad* helps clear new sites for a public and collective examination of facets of the legal tradition.¹¹² This may be among the most important, if unintended, consequences of their increasingly enthusiastic embrace of the rhetorical language of *ijtihad*.

¹¹¹ Ramadan may well have influential scholars like Qaradawi in mind in arguing in this vein. Note that Ramadan has drawn extensively on Qaradawi's ideas on *ijtihad* in some of his earlier works. See, in particular, Tariq Ramadan, *To be a European Muslim* (Leicester: The Islamic Foundation, 1999), 93–9. But then, as Ramadan himself observes in the preface to his *Radical Reform*, the approaches proposed in his own earlier writings have reached their limit, which he now wishes to transcend. Ramadan, *Radical Reform*, 1–2.

¹¹² For a somewhat similar argument, although in a different locale and not with specific reference to *ijtihad*, see Feener, *Muslim Legal Thought in Modern Indonesia*, especially 220–1.



Contestations on the Common Good

THIS CHAPTER IS CONCERNED WITH SOME OF THE WAYS IN WHICH THE *ʿ*ulama, and especially the internal critics among them, have debated ideas of the common good. *Maslaha*, which I characterize here as public interest or the common good, was a relatively minor part of the medieval legal tradition, but it has come to occupy a substantial space in modern Islamic discourses. This is largely explicable in terms of the opportunities modernizing reformers have sought to jettison or radically reshape inconvenient parts of the legal tradition by appealing to public interest but, crucially, to do so in ways that continue to invoke Islamic juridical terms and categories. I will presently comment on some premodern juristic work on *maslaha* and its modern defenders. However, irrespective of the precise history of the idea of the common good in the world of Islamic law, the questions it raises are far from trivial. For they concern nothing less than the relationship between God’s law and human welfare. What are genuine, rather than illusory, human interests, and who decides what really serves those interests? Is it legitimate to set particular legal norms aside in light of what is taken to be the common good? And what does appeal to changing human interests mean for the timeless authority of the sacred law? Such questions are implicit in the debates we will encounter in the following pages. Yet an analysis of the content of these debates is not the primary goal of this chapter. It is rather to observe the sort of contestation that has often taken place within the ranks of the *ʿ*ulama, and debates on the common good provide an especially good vantage from which to view some of this contestation. It is also to understand the social significance of this contestation – that is, to explore the implications of the sociological insight that contestation on the common good is *constitutive* of its conceptions as well as of the public sphere in which the relevant debates take place.

Speaking of the common (or, as he prefers to call it, the public) good in the contemporary United States, sociologist Craig Calhoun observes:

[I]n considering the public good we need to think more clearly of the public as a realm or realms of discourse and contestation within which both identities and interests are constituted. The public good cannot be discovered independently of this public process. . . . [Rather, it] needs to be seen as dynamic, as a project in which varied actors participate, speaking through different cultural understandings, never altogether

agreeing on just what the public is, yet producing it continuously if incompletely through their very discourse.¹

Some of the ways in which the discourses of the `ulama highlight similar processes are the subject of this chapter. An adequate understanding of contestations on the common good in the Muslim public sphere, and of that sphere itself, would admittedly require attending to the discourses of many more people than the `ulama – for example, the Muslim modernists, the Islamists, members of the intelligentsia, and of course, ordinary Muslim, and non-Muslim, men and women. Yet even in limiting ourselves to some `ulama, as I do here, we can glimpse something of the manner in which conceptions of the common good, Muslim identity, and the public sphere itself have continued to be articulated and the place that internal critics and their discourses have had in this contested and evolving landscape.

MASLAHA IN MEDIEVAL AND MODERN ISLAM

A number of doctrines and methods in medieval Islamic jurisprudence concern themselves with what may be regarded as matters of the common good. As seen earlier, jurists like Ghazali had posited five fundamental values – religion, life, progeny, property, and rationality – as encapsulating the “purposes of God’s law” (*maqasid al-shari`a*). These values plainly converge on the preservation, within the limits prescribed by God, of the interests of human beings – their individual and common good. The concept that best expresses this concern with securing these interests, and around which much of the discussion on the purposes of the shari`a revolves, is *maslaha* (plural: *masalih* and, more precisely, *maslaha `amma*, “public interest”).²

Maslaha was not only a minor but also a rather controversial doctrine in medieval jurisprudence.³ Juristic reservations about it rested primarily on the fact that considerations of maslaha were often seen as lacking explicit justification in the foundational texts. This fact was underscored by its frequent characterization as *maslaha mursala*, that is, maslaha-related matters not anchored in specific textual proofs. Such reservations did not necessarily prevent scholars from having recourse to considerations of maslaha, however, either under this or some other rubric. The

¹ Craig Calhoun, “The Public Good as a Social and Cultural Project” in Walter W. Powell and Elisabeth S. Clemens, eds., *Private Action and the Public Good* (New Haven: Yale University Press, 1998), 20–35; quotations from pp. 20, 24. On the public good as “a contested concept,” see Jane Mansbridge, “On the Contested Nature of the Public Good” in Powell and Clemens, eds., *Private Action and the Public Good*, 3–19. Whether or how “public good” is to be differentiated from the “common good” is itself a matter of some disagreement among theorists, although the distinctions are not crucial for my discussion here.

² Though *maslaha `amma* fully underscores the public as opposed to any personal or particular dimension of utility or interest, the term *maslaha* is usually understood by those using it to already carry a collective, public, sense. Unless otherwise noted, it is in this sense that I, too, employ it here.

³ Hallaq, *Islamic Legal Theories*, 112–13, 214.

Malikis tended to be more hospitable to *maslaha* than others, but as al-Qarafi (d. 1285), a noted Maliki jurist of Egypt observed, scholars of all schools of law had made use of it.⁴ Some defended their resort to it as a way of attending to the aforementioned purposes of the law. But legal scholars could also put it to use, as not a few did, through its incorporation into their methodology, for instance as the basis of analogical reasoning. Such strategies would allow *maslaha* a tenuous yet enduring space in medieval legal thought.⁵

Not everyone was content with such unstable standing room, however. Among the most daring of them was an Iraqi jurist of the Hanbali school of law, Najm al-din al-Tufi (d. 1316), who lived in the traumatic decades following the devastating Mongol invasions of Islamic lands in the thirteenth century. Tufi took it upon himself to argue that the relationship between *maslaha* and the foundational texts ought to be reversed.⁶ Far from lacking adequate support, he insisted that the legitimacy and indeed the necessity of taking account of *maslaha* were clearly attested to in both the Qur'an and in hadith.⁷ Put differently, the authority of *maslaha* was not untethered to the foundational texts – as signaled by its characterization as *maslaha mursala* – but very much rooted in them.⁸ Once he had established, at least to his satisfaction, this overall accord between *maslaha* and the foundational texts, he went on to argue that any textual evidence that seemed to conflict with considerations of the common good ought to be understood in light of those considerations, and *not vice versa*.⁹ Tufi reasoned that even those theologians – and there were some – who disputed the authority of consensus accepted the need to take account of the common good. Further, he argued, scholars disagreed in their understanding of the Qur'an and hadith and, on the Qur'an's own showing, such disagreement was an undesirable thing. Yet they agreed, he claimed, on the principle of being guided by considerations of the common good, which therefore ought to have what Joseph Raz might call preemptive authority.¹⁰ At an exceptionally

⁴ Shihab al-din al-Qarafi, *Sharh tanqih al-fusul*, ed. Taha `Abd al-Ra'uf Sa'd (Cairo: Dar al-fikr, 1973), 394, 446. Also cf. Yusuf al-Qaradawi, *al-Din wa'l-siyasa: Ta'sil wa radd shubuhah* (Cairo: Dar al-shuruq 2007), 33–4. On Qarafi, see Sherman Jackson, *Islamic Law and the State: The Constitutional Jurisprudence of Shihab al-Din al-Qarafi* (Leiden: Brill, 1996).

⁵ On *maslaha* in medieval and modern juristic thought, see Hallaq, *Islamic Legal Theories*, 112–13, 168–74, 214–31, 261; Felicitas Opwis, *Maslaha and the Purpose of the Law* (Leiden: Brill, 2010); idem, “Maslaha in Contemporary Islamic Legal Theory,” *Islamic Law and Society* 12 (2005): 182–223; idem, “Islamic Law and Legal Change: The Concept of Maslaha in Classical and Contemporary Legal Theory” in Abbas Amanat and Frank Griffel, eds., *Shari`a: Islamic Law in the Contemporary Context* (Stanford: Stanford University Press, 2007), 62–82.

⁶ Najm al-din al-Tufi, “Adillat al-shar’ wa taqdim al-maslaha fi'l-mu`amalat `ala'l-nass,” *al-Manar* 9 (1906–7): 745–70. Also published in Mustafa Zayd, *al-Maslaha fi'l-tashri` al-Islami wa Najm al-din al-Tufi*, 2nd ed. (Cairo: Dar al-fikr al-`Arabi, 1964), 206–40.

⁷ See al-Tufi, “Adillat al-shar’,” 754–8; Zayd, *al-Maslaha*, 211–15.

⁸ al-Tufi, “Adillat al-shar’,” 764; Zayd, *al-Maslaha*, 235; Rida, *Tafsir al-manar*, 7: 194.

⁹ al-Tufi, “Adillat al-shar’,” 753, 760ff.; Zayd, *al-Maslaha*, 209, 227ff.

¹⁰ al-Tufi, “Adillat al-shar’,” 760; Zayd, *al-Maslaha*, 227; Opwis, *Maslaha and the Purpose of the Law*, 213–14. On preemptive authority, see Introduction, n. 123.

difficult time in the history of Islam, Tufi was much concerned with finding and fostering common ground among Muslims,¹¹ and the idea of *maslaha* may well have recommended itself to him as a means of bringing people together in light of where their common interests lay.¹²

Tufi was not remembered kindly by subsequent generations of scholars.¹³ But, as noted, the doctrine of *maslaha* has come to enjoy a new salience in modern legal thinking, with a concomitant rehabilitation of Tufi. His treatise on *maslaha* was published in *al-Manar* in 1906, with annotations by the Damascene Salafi scholar Jamal al-din al-Qasimi (d. 1914).¹⁴ In his commentary on the Qur'an, Rida, for his part, argues that the principle of "not inflicting injury nor repaying one injury with another" – a hadith which Tufi had made the cornerstone of his short treatise on *maslaha* – as well as the axiom that "the injurious is to be warded off and the beneficial preserved" ought always to be central to how political, judicial, and military affairs are handled.¹⁵ Medieval scholars did, in fact, take these principles into account, Rida observes in following the aforementioned Qarafi and adducing other medieval scholars in support.¹⁶ However, Rida adds, they had worried that oppressive rulers would misuse such principles and justify their illegitimate actions in terms of public interest. To limit the scope of royal capriciousness, these scholars had opted for anchoring all legal norms directly in the foundational texts, closing the door to willful manipulation that *maslaha* might have left ajar. Yet, Rida continues, bad rulers were never unsuccessful in finding those who would justify their evil ways. The correct way of dealing with the danger that the common good might be manipulated for political gain is not, then, to curtail the idea of *maslaha* itself. It is rather to make

¹¹ Cf. al-Tufi, "Adillat al-shar'," 763; Zayd, *al-Maslaha*, 234. Also see *El2*, 10: 588–9, s.v. "al-Tufi" (W. P. Heinrichs). The phrase "common ground" is Heinrichs'.

¹² For this view, see Opwis, *Maslaha and the Purpose of the Law*, 243–5.

¹³ See Ibn Rajab, *Kitab dhayl `ala tabaqat al-Hanabila*, ed. Muhammad Hamid al-Fiqi, 2 vols. (Cairo: Matba`a al-sunna al-Muhammadiyya, 1952–3), 2: 366–70; Ibn Hajar al-`Asqalani, *al-Durar al-kamina*, ed. Muhammad Sayyid Jad al-Haqq, 5 vols. (Cairo: Dar al-kutub al-haditha, 1966–7), 2: 249–52. It should be noted, however, that Tufi's disrepute had to do not with his views on *maslaha* but rather with the allegation that he was a Shi'i. He was not helped by his criticism of `Umar (the second of the Rashidun caliphs) for preventing the companions of the Prophet from committing hadith reports to writing. If only the hadith had been compiled in writing at that early stage, Tufi thought, rather than in later generations, the `ulama would have been spared many of their subsequent disagreements. See Ibn Rajab, *Dhayl*, 2: 368–9.

¹⁴ On al-Qasimi, see David Dean Commins, *Islamic Reform: Politics and Social Change in Late Ottoman Syria* (New York: Oxford University Press, 1990).

¹⁵ See Rida, *Tafsir al-manar*, 7: 197 (commenting on Q 5:101–2). I follow Kerr's translation of the hadith (*la darar wa la dirar*) here. See *Islamic Reform*, 81. For Rida's ideas on *maslaha*, see Opwis, "Maslaha in Contemporary Islamic Legal Theory," 198–201; Hamzah, "L'intérêt general (*maslaha`amma*) ou le triomphe de l'opinion." Hamzah argues that Rida's discourses on *maslaha* ought to be seen with reference not so much to medieval juridical theory, as Opwis does, but rather to Rida's career as a journalist.

¹⁶ Rida, *Tafsir al-manar*, 7: 197.

“those who loosen and bind” a really binding check on the capriciousness of the ruler.¹⁷

While arguing for the centrality of *maslaha* to legal hermeneutics, Tufi had clearly limited it to human interaction (*mu`amalat*). Matters of ritual observance (*`ibadat*) were off-limits, for these had to be practiced because God had said so, irrespective of any underlying rationale. As he had put it, echoing the social and legal norms of his age, “a slave of ours is not reckoned an obedient servant unless he follows exactly what his master has laid down for him.”¹⁸ Interestingly, Shah Wali Allah of Delhi would later take up the challenge of explicating precisely what Tufi had ruled out. Although Wali Allah does not refer to him, he begins his magnum opus, *The Conclusive Argument from God*, with words that seem to mirror Tufi’s:

It may be thought that . . . being obligated by the divine laws is like the case of a master who wants to test the obedience of his slave, so he orders him to lift a stone or to touch a tree – something which has no use to it besides being a test, so that when he obeys or disobeys, he is requited for his action. This is a false idea which is refuted by the practice of the Prophet, may the peace and blessings of God be upon him, and the consensus of the generations whose goodness has been attested.¹⁹

It is, however, a mark of the tenuousness of *maslaha* in medieval and early modern Islam that even Wali Allah, while seeing God’s commands as having rationales that were demonstrably tied to human interests, could not bring himself to endorse the resort to *maslaha* in Tufi’s sense – that is, as a means of articulating or extending the scope of particular legal norms by merely adducing the common good rather than on specific *textual* grounds.²⁰ To Rida, however, the sort of reasoning Wali Allah had engaged in *could* be taken as further support for ideas such as Tufi’s. As he told his audience at the Muhammadan Anglo-Oriental College in Aligarh, on the occasion of his 1912 visit to India, the fulfillment even of divinely mandated ritual practices, such as prayer, fasting, zakat, and hajj, served human interests and not just the will of God. So “if this wise book [the Qur’an] accounts for (*yu`allil*) even the fundamental rituals by explaining their benefits and uses,” he continued, “then how could one deny that rulings relating to worldly matters, as well as matters of social etiquette, are to be explained in terms of their benefits and uses?”²¹

¹⁷ Ibid., 7: 197–8. For another discussion on this score by Rida, this time with reference to “the closing of the door of *ijtihad*” as a way of preventing the abuse of authority by the governing elite, see *al-Manar* 24 (1923): 701.

¹⁸ al-Tufi, “*Adillat al-shar`*,” 769; Zayd, *al-Maslaha*, 240.

¹⁹ Wali Allah, *Hujjat Allah*, 1: 4–5; translation as in Hermansen, *Conclusive Argument*, 11 (with minor modification).

²⁰ See Baqa, *Usul-i fiqh awr Shah Wali Allah*, 409–11; also *ibid.*, 397–402.

²¹ Muhammad Rashid Rida, “*al-Tarbiya wa wajh al-haja ilayha wa taqasimuha. . . . khutba irtijaliyya ulqiyat fi madrasat al-`ulum al-kulliyya bi-`Alikarh*,” *al-Manar* 15 (1912): 567–86, at 581–2. He does not specifically mention either Tufi or Wali Allah here. It is worth noting, however, that, in the proposed curriculum for his short-lived Madrasat al-da`wa wa’l-irshad, Rida includes Wali Allah’s *Hujjat Allah* among the works that were to assist in the writing of new textbooks on the purposes of

Aligarh College, it will be recalled, was founded to impart modern, English education to the Muslims of India, and there was a sense in which the English were seen as the arbiters of good taste and sound argument. In his speech, Rida went on to tell the Aligarh students and faculty that Englishmen were plainly intrigued by this *maslaha*-based view of Islam. Indeed, this understanding of Islam was so different from their common perceptions that it was hard for them to believe that it was a “religion” at all, rather than just a “philosophy.” As one Englishman, Alfred Mitchell-Innes, under-secretary of state for finance in Egypt, had said to him, “If this is Islam, then I am a Muslim.” On another occasion, that Englishman had observed that he did not hear “such reasonable talk about Islam from anyone other than . . . [Rida] and Muhammad `Abduh,” remarking, “Are there no Muslims here other than the two of you?” On yet another occasion, that same Englishman had asked if the `ulama of al-Azhar would corroborate Rida’s *maslaha*-based view of Islam, adding “I would become a Muslim if the Azhar `ulama expressed a similar view.”²²

Rida’s point in recounting these anecdotes was to explain that Islam would spread rapidly “among all Western and Eastern people” if it was properly explained to them in terms of its fundamental accord with human nature and human interests. By the same token, the anecdotes were an indictment of the Muslim political and religious leadership, and of the present state of the Muslim world, all of which had given such a bad name to Islam.²³

Yet the objections of Mitchell-Innes also hinted at a certain sense of unease in Rida’s view of Islam. It was bad enough that even an Englishman would want the Azhar-`ulama to confirm an interpretation before he would accept it. Years later, Rida would be incensed to see Yusuf al-Dijwi (d. 1946), a conservative Azhar `alim hostile to his reformist Salafi brand of Islam, appointed to the editorial advisory board of the *Encyclopaedia of Islam* – another reminder of where his contemporary Europeans sought Islamic authenticity.²⁴ What is worse, as Malcolm Kerr observes in another context, Rida may have been uncomfortable with some of the implications of his own views. As concerned as he was with demonstrating – and making room for – the responsiveness of the law to changing human needs, the case for such responsiveness threatened to make this law appear as a product of human effort and historical evolution, rather than as a divine blueprint. Rida could not have it both ways. And his discomfort with seeing the divine and sacred dimension of the shari`a dissipated by the emphasis on its continuing responsiveness to human interests is best illustrated by his

the shari`a and the wisdom behind its rulings. Incidentally, Tufi is not mentioned there either. See *al-Manar* 14 (1911–12), 807–8.

²² Rida, “al-Tarbiya,” 582. On Mitchell-Innes, see Hourani, *Arabic Thought*, 235; Rida, *al-Manar wa’l-Azhar*, 195–6.

²³ Rida, “al-Tarbiya,” 583.

²⁴ Ryad, *Islamic Reformism*, 40–1. On the bad relations between Dijwi and Rida, see Skovgaard-Petersen, *Defining Islam*, 152–3.

polemics against those who seemed to him to emphasize the latter at the cost of the former.²⁵

In fairness to Rida, this was not a tension peculiar to him, or even to modern Islam. In eighteenth-century England, for instance, there were those who insisted that “the natural right of human beings to think and pursue truth had to be taken as the basis of civil society [and, indeed, that] . . . there was no other way of describing a common good.” Yet a celebration of reason was often accompanied by grave misgivings about what it might mean for established religious norms.²⁶ As would be recalled, Rida, too, liked to insist on the need for individual deliberation (*tadabbur*), and reminding his readers of this Qur’anic imperative was one of the ways in which he argued against the practice of *taqlid*. There were limits to how far such individual deliberation could go, however, just as there were unresolved ambiguities in the otherwise attractive effort to show that the sacred law remained receptive to changing needs and the public interest.

More recent internal critics have not quite resolved Rida’s dilemma. Yusuf al-Qaradawi, who has written extensively on *maslaha*, seems to be aware of the dilemma but he wants to steer clear of it. His discussion of the common good, especially in a book titled *Governance According to the Shari`a in Light of the Texts and the Purposes of the Sacred Law*, does nonetheless merit some discussion here.²⁷ This book is part of a series of his writings that “treats diverse intellectual issues – of law and legal theory, faith and practice – where the [true] path might have become obscured.” In clarifying these intellectual issues, the series focuses each of its volumes on one or more of the “Twenty Principles” enunciated by Hasan al-Banna (d. 1949), the founder of the Muslim Brotherhood.²⁸

Qaradawi discusses *maslaha* primarily in the context of areas where, as Banna has it, one ought to act in accordance with the opinion of the ruler (*imam/wali al-amr*). Three such areas are identified: matters that are not explicitly regulated by indications in the foundational texts, questions on which several different options are available, and matters of *maslaha*.²⁹ Qaradawi largely follows the medieval jurist Ghazali in characterizing considerations of *maslaha* as themselves being of three kinds: those for which the *shari`a* provides clear indications and which therefore are unambiguously authoritative, those against which the *shari`a* provides clear indications and which consequently are plainly inadmissible, and finally, those on

²⁵ Kerr, *Islamic Reform*, 203–8.

²⁶ Peter N. Miller, *Defining the Common Good: Empire, Religion and Philosophy in Eighteenth-Century Britain* (Cambridge: Cambridge University Press, 1994), 266–348; quotation at 348.

²⁷ Qaradawi, *al-Siyasa al-shar`iyya*. For a brief discussion of *maslaha* with reference to Qaradawi, see Armando Salvatore, “Qaradawi’s *maslaha*: From Ideologue of the Islamic Awakening to Sponsor of Transnational Public Islam,” in Gräf and Skovgaard-Petersen, eds., *Global Mufti*, 239–50.

²⁸ For a description of this series, see Qaradawi, *Turath*, 5–9; the quotation describing the purpose of the series is from p. 5.

²⁹ Qaradawi, *al-Siyasa al-shar`iyya*, 65–98.

which the foundational texts provide neither support nor reasons for rejection.³⁰ Another tripartite classification Ghazali and many subsequent jurists had spoken about characterizes human interests as matters of urgent “necessities” (*al-darurat*, usually equated with the five purposes of the shari`a), important “needs” (*al-hajat*), and “amenities” (*al-tahsiniiyyat* or *al-tazyinat*).³¹ Maslaha, Ghazali had been careful to note, is not just a matter of seeking that which is beneficial and warding off what is injurious. Instead, it signifies the safeguarding of the shari`a’s purposes.³² The criterion of what counts as maslaha is therefore provided by the shari`a itself rather than by the people, for all that it is the latter who are the beneficiaries of the shari`a’s concerns. Qaradawi concurs with this crucial qualification, but he also wants to make Ghazali’s category of the “necessities” that the shari`a protects more expansive. He writes:

If I were to add to Ghazali’s definition of maslaha, I would use his original formulation but say [the following]: “By maslaha, we mean safeguarding the purpose[s] of the shari`a. And the purpose[s] of the shari`a for the people are to protect their religion, life, rationality, progeny, property, honor, peace, rights and freedoms, the institution of justice and shared responsibility in [what ought to be] a model community, and everything [else] that makes life easier for them, removes oppression, perfects their character, and guides them to what is best in manners and customs, in [social] arrangements and in interactions.” I don’t think that our imam, Ghazali, would object to such an addition [to his definition], for it conforms to his goals in [showing] the link between maslaha and the purposes of the shari`a; and what we have mentioned is, without doubt, a part [of those purposes].³³

We do not need to decide whether Ghazali would have concurred with Qaradawi on this extended list although it is worth noting in passing that there may be a certain degree of tension between Qaradawi’s expansive list of the purposes of the shari`a and his insistence, as seen in [Chapter 2](#), that the “constants of the community” occupy only a small, albeit nonnegotiable, space.

More pertinent in the present context is the question of how maslaha serves as the cornerstone, as it did for Rida, of Qaradawi’s vision of an ideal Islamic society and state. Maslaha, Qaradawi writes, is central to legislation on matters not regulated by the shari`a but necessary for the proper ordering of a modern society. Maslaha here is not just a matter of ensuring that laws are, indeed, in the general, public interest; it is the very basis for new legislation. Discretionary punishments – that is, punishments not specifically stipulated by Islamic law and left instead to the discretion of the ruler – need to be legislated, Qaradawi says, to curb usury, bribery, usurpation of the rights of the orphan, neglecting prayers, harassing or assaulting women in the streets, and other evils:

³⁰ For Ghazali’s discussion of maslaha and related matters, see *al-Mustasfa*, 1: 284–315.

³¹ See Hallaq, *Islamic Legal Theories*, 89–90, 168–70.

³² Ghazali, *al-Mustasfa*, 1: 286–7.

³³ Qaradawi, *al-Siyasa al-shar`iyya*, 84.

Sermon and admonition is not a sufficient deterrent [against such evils], and it is known that God restrains with [political] authority what He does not restrain through the Qur'an [alone]. There are hundreds of sins, forms of opposition [to the divine law], and wrongs that the shari'a has forbidden, or has commanded doing the opposite of, but it has not established a specific penalty for them; and so they need legislation.³⁴

The distinction between sin and crime, between moral and legal infractions, collapses here. Qaradawi seeks the regulation of both through new legislation, and he sees the justification for such initiatives in *maslaha*.

Public interest likewise requires the codification of the law, as was attempted, Qaradawi notes, in the form of the *Majalla* (1869–76) in the late Ottoman Empire. Unlike the nineteenth century *Majalla*, however, which was a partial codification of civil law on the basis of the Hanafi legal tradition, Qaradawi seeks a codification that brings together the resources of the different schools of law, even opinions that are no longer part of any recognizable or existing school of law. Such codification would include matters not previously regulated by the shari'a in terms of definite penalties.³⁵ Although *maslaha* falls, for Qaradawi, within the purview of things that are to be left to the imam, the overall impression is that the religious scholars, the *ʿulama*, determine whether considerations of *maslaha* can legitimately be taken into account in a particular legal issue. The purposes of the shari'a guide considerations of *maslaha*, of course, but only if there are no explicitly contravening indications in the foundational texts against the resort to *maslaha*. And the scholars of the shari'a, he implies, are best qualified to determine this.³⁶ This seems to echo Rida's view that, rather than constrain the scope of *maslaha*, "those who loosen and bind" ought to be an effective check on the ruler's handling of *maslaha*. Like Rida, and against some influential Islamist ideologues, Qaradawi has also argued that the advice of those comprising this select group ought to be binding on the ruler, for otherwise, their very characterization in the Islamic tradition as "people who loosen and bind" would be a misnomer.³⁷

The question of possible contradiction between *maslaha* and the purport of specific shari'a rulings is important, and Qaradawi devotes considerable attention to it. It is in this context that he defends the medieval Hanbali jurist Tufi against the criticism that he had ranked *maslaha* above the foundational texts. Although Tufi did not always make this explicit, it is clear, Qaradawi says, that *maslaha* can override indications in the foundational texts *only* when such textual indications are not a matter of certainty as to their meaning. When, however, they are, there

³⁴ Ibid., 95–6. For the idea of God restraining through power more than through scripture, see Rida, *Muhawarat*, 79; Patricia Crone, *God's Rule: Six Centuries of Medieval Islamic Political Thought* (New York: Columbia University Press, 2004), 270. Qaradawi, too, is fond of this idea. For other invocations of it by him, see, for instance, Yusuf al-Qaradawi, *Mushkilat al-faqr wa kayfa ʿalajaha al-Islam* (Beirut: Dar al-ʿarabiyya, n.d. [1967]), 33.

³⁵ Qaradawi, *al-Siyasa al-sharʿiyya*, 96.

³⁶ See Salvatore, *Political Discourse*, 202–4.

³⁷ Yusuf al-Qaradawi, *Min fiqh al-dawla fi'l-Islam* (Cairo: Dar al-shuruq, 1997), 146.

can be no question but that *maslaha* must be subordinate to them. And Tufi, he insists, never asserted otherwise.³⁸

Qaradawi's reading of Tufi enables him to navigate between what he takes to be two extremes concerning *maslaha*. On the one hand, there are those who exclusively follow the literal meaning of specific rulings, ignoring their broader aims and thereby keeping the law frozen in time.³⁹ At the other extreme are those who profess to base themselves only on what they discern as the larger purposes of the law irrespective of whether such putative purposes contradict the explicit injunctions of the foundational texts. Tufi's views are taken, without basis, he says, as a major justification by such people.⁴⁰ The third group, among whom Qaradawi unflinchingly counts himself, comprises the "centrists." They base themselves on the specifics of the law without, however, losing sight of its larger purposes; and they are guided by considerations of the common good, but only insofar as these are not contradicted by the foundational texts. It is here, with this group, that medieval scholars like Tufi and Abu Ishaq al-Shatibi (d. 1388), a medieval Spanish jurist of the Maliki school whom Rida had helped reintroduce to modern Islamic thought, are held to belong.⁴¹ This is the group that, for Qaradawi, ensures the receptivity of the *shari'a* to change and to the common good through the resources provided by the *shari'a* itself rather than at its expense.

If Qaradawi thinks that his discussion of *maslaha* avoids Rida's dilemma, he does not say so. Indeed, Rida is conspicuously absent from Qaradawi's discussion here, even when he lists the names of the major modern scholars of Islamic law (*fuqaha al-`asr*) who have written on matters of *maslaha*.⁴² This is an odd omission, for Qaradawi does refer frequently to Rida in his other writings and does so with approval and, indeed, with high praise. One might think that, because Qaradawi is speaking here specifically of the jurists, he does not think that Rida fits in this list. It is worth noting, however, that, elsewhere, he not only characterizes Rida as "*al-imam al-shaykh*" and counts him among "the learned scholars" (*al-`ulama*

³⁸ Qaradawi, *al-Siyasa al-shar`iyya*, 145–50. Also see Yusuf al-Qaradawi, *Dirasa fi fiqh maqasid al-shari`a bayna'l-maqasid al-kulliyaa wa'l-nusus al-juz'iyya* (Cairo: Dar al-shuruq, 2006), 109–13.

³⁹ Qaradawi, *al-Siyasa al-shar`iyya*, 214–27.

⁴⁰ *Ibid.*, 228–42.

⁴¹ *Ibid.*, 243–64. One of Shatibi's books was edited and introduced by Rida. See Abu Ishaq Ibrahim al-Shatibi, *al-I'tisam*, 3 vols. (Cairo: Matba'at al-sa'ada, n.d.). Rida's preface is dated 1914. Also see Rida, *Tafsir al-manar*, 6: 157, where he characterizes Shatibi's *al-Muwafaqat* as a book "the like of which has never been written on the principles of Islam and its philosophy." On Shatibi, see Muhammad Khalid Masud, *Islamic Legal Philosophy: A Study of Abu Ishaq al-Shatibi's Life and Thought* (Delhi: International Islamic Publishers, 1989); Hallaq, *Islamic Legal Theories*, 162–206.

⁴² Qaradawi, *al-Siyasa al-shar`iyya*, 94–5. The scholars he mentions in this context are Muhammad al-Khudari (d. 1927); Ahmad Ibrahim (d. 1945); Muhammad Mustafa al-Maraghi (d. 1945); `Abd al-Wahhab Khallaf (d. 1956); Abu Zahra (d. 1974); Mahmud Shaltut (d. 1963); Muhammad Mustafa Shalabi; Mustafa al-Zarqa (d. 1999?); Mustafa Zayd (d. 1978); Husayn Hamid Hassan; Muhammad Sa'id Ramadan al-Buti (b. 1929); `Abd al-Karim Zaydan; and Wahba al-Zuhayli (b. 1932).

al-muhaqqiqin),⁴³ but he also lists him alongside some of the very people he characterizes here as jurists.⁴⁴ Significantly, Rida also figures among those whom Qaradawi views as mujtahids of modern Islam.⁴⁵ It is tempting to think that his absence here reflects a degree of distaste for Rida's position on *maslaha*, whereby it had essentially become a none-too-subtle means of circumventing the legal tradition itself.⁴⁶

Rida's name, however, is not the only thing missing from Qaradawi's substantial discussion of *maslaha*. Given that the book under discussion is a work on "governance according to shari'a norms," it is striking that he says so little on the question of how the ruler's authority and his exercise of *maslaha* are regulated. He might well respond to this objection by noting that he sees considerations of *maslaha* as firmly embedded in the foundational texts and that the authority of these texts removes the danger of willful manipulation on the part of the ruler. More generally, in various writings, Qaradawi refers to the *ʿulama* as a check on the ruler's governance, as has been seen. Yet, the problem persists. If shari'a norms in themselves are not necessarily a check on the morals of society – as he himself acknowledges, and which, indeed, is why he wants new penal laws to be enacted even where the shari'a had previously done without them – these norms would not be beyond a ruler's ability to sidestep or to manipulate in the name of the common good or of necessity (*darura*). And how far the *ʿulama* can constrain the ruler, except, say, through the threat of fomenting a popular uprising (on which see below), is anything but certain.

For all his apparent awareness of the danger that *maslaha* can become a plaything in the wrong hands, that is precisely the danger that lurks in Qaradawi's delineation of "governance according to shari'a norms." It is this danger that continues to inform a more stringent view of the common good on the part of several other contemporary *ʿulama*. The ambivalence toward *maslaha* comes out strongly, for instance, in a detailed legal opinion on the legitimacy of land reforms by the aforementioned Mufti Muhammad Taqi *ʿUthmani*, a former judge of the Shari'at Appellate Bench of the Supreme Court of Pakistan.⁴⁷ With its categories of the lawful and the forbidden, Islam regulates the means through which property might be acquired or augmented, he says; however, if property is acquired through

⁴³ E.g., Qaradawi, *Fiqh al-jihad*, 1: 249 n. 1. For the characterization of Rida as "al-imam al-shaykh," *ibid.*, 1: 369.

⁴⁴ For instance, Muhammad al-Khudari, Abu Zahra, and Shaltut. See Qaradawi, *Fiqh al-jihad*, 1: 249 n. 1, 277 n. 1.

⁴⁵ Qaradawi, *al-Ijtihad al-mu'asir*, 18. Some of the others he includes in this rarefied group are the Egyptians Muhammad *ʿAbduh*, Mahmud Shaltut, Muhammad Abu Zahra, and the Tunisian al-Tahir ibn *ʿAshur* (d. 1973). Qaradawi also characterizes Rida and his writings as representing "the centrist, balanced trend" (Qaradawi, *Maqasid al-shari'a*, 215).

⁴⁶ For the view that Rida's deployment of *maslaha* amounts to subverting the entire legal tradition, see Hallaq, *Islamic Legal Theories*, 214–20, esp. 219.

⁴⁷ Muhammad Taqi *ʿUthmani*, *Milkiyyat-i zamin awr us-ki tahdid*, 2nd ed. (Karachi: Maktaba-i Dar al-*ʿUlum*, 1993).

lawful means, then there is no restriction on the amount acquired.⁴⁸ Taqi `Uthmani acknowledges that an Islamic government would be within its rights if it were to impose some restrictions (for example, on the amount of landed property that one can own) in view of the common good. But such restrictions, or the reclaiming of property beyond a prescribed limit, must only be temporary. Permanent restrictions of this sort would imply that the government was making forbidden something that was explicitly allowed by God.⁴⁹ Furthermore, it is not enough merely to invoke “a vague justification in the public interest” for either the limitation on the ceiling within which one can own property or for the government’s takeover of property beyond that ceiling; to be legitimately undertaken, such measures require a careful determination of “necessity,” which is only applicable in life-threatening or other extremely desperate straits.⁵⁰

All this might suggest a deep-seated unwillingness to allow any substantial change in the legal tradition. Yet Taqi `Uthmani never explicitly says that more substantial change is inadmissible, just that such change does not seem to him to be necessary in the instances in question. Unlike liberal interpreters of Islam, who are typically in charge of formulating state policy, `ulama like Taqi `Uthmani are reluctant to invoke *ijtihad* or *maslaha* as an excuse for stepping outside the established juristic tradition except in the most pressing circumstances. Their objections against the indiscriminate use of necessity are similarly motivated. This distrust is not merely a continuation of the ambivalence that medieval jurists sometimes felt toward *maslaha*. It is also a facet of misgivings toward the state – an attitude that itself has deep medieval roots.⁵¹ Considerations of public interest and the common good thus become suspect not just because their relationship with the foundational texts might be tenuous. They are also the object of some suspicion because the state and its modernist elite can easily wield them for their own ends. It is worth noting here that, although `Ubayd Allah Sindhi did not say much on *maslaha*, he did observe, in one of his Qur’an commentaries, that “it is permissible for Muslims, with the consensus of those who loosen and bind among them, to alter established norms (*taghyir al-sunan*) in accordance with considerations of *maslaha*.”⁵² Rida would have concurred with this view, but Taqi `Uthmani plainly would not. To the latter, as to many others all the way back to Ghazali, the good in *maslaha* is defined by the *shari`a*. The *shari`a*’s good is meant for the people – and it is common or public in that sense – yet it is not the people who determine it. The importance of the common good in the overall vision of the *shari`a* is recognized and indeed stressed, but any such idea only holds inasmuch as it is clearly grounded in the *shari`a*.

⁴⁸ *Ibid.*, 20.

⁴⁹ *Ibid.*, 24–7; for a similar view but with other examples, see Qaradawi, *al-Ijtihad al-mu`asir*, 78–9.

⁵⁰ Taqi `Uthmani, *Milkiyyat*, 115–16, 139; quotation from 116.

⁵¹ Zaman, *The Ulama*, 87–110.

⁵² Sindhi, *Ilham al-Rahman*, 240. Cf. *ibid.*, 269.

CONTESTATIONS ON THE COMMON GOOD: ILLUSTRATIONS

Is there more to the `ulama's conception of the common good than the assertion, on the one hand, that the shari`a is concerned with it and, on the other, that modernist constructions of the common good violate rather than further the shari`a's concerns? In other words, where might we locate more specific discussions of matters relating to the common good? I would suggest that the `ulama's general and often vague assertions on how the shari`a secures such good are not the primary, let alone the most illuminating, site of their discussions on these issues – although such assertions, too, cannot be dismissed lightly. Instead, their conceptions of the common good, and their contribution to the further articulation of such conceptions, are to be located in how they seek to deal with particular controversies.

My examples in what follows relate to the debate on the prohibition or permissibility of financial interest, that is, the question of whether the *riba* that the Qur'an forbids (cf. Q 2.275–6; 3.130; 30.39) covers all forms of interest and for all times. The literature on this subject is vast and, as Rashid Rida had once put it, its obtuseness parallels that of the problem of free will in Islamic theology.⁵³ Over the course of his long career, Rida wrote on this subject on more than one occasion, but I will briefly focus here only on the most extensive of these discussions. This was prompted by a request for a fatwa that he received in 1928 from Mufti `Abd al-Latif (d. 1959) of the princely state of Hyderabad. In contrast with many such states, Hyderabad was governed by a Muslim ruler, and it was at the behest of the Hyderabad government and its shari`a court that this fatwa was solicited.

Fatwas can take many forms, from a simple “yes” or “no” answer to an elaborate treatise. *Requests* for fatwas (*istifta*) can also take different forms, although it is unusual for them to be very long. In this instance, however, the mufti from Hyderabad had drafted his query in the form of a fifty-or-so-pages-long tract on the question of financial interest, and he had sent it to a number of scholars in and outside India for a response. Three copies were sent to Rida: one for himself, another for Muhammad Mustafa al-Maraghi, then the rector of al-Azhar, and the third for Muhammad Bakhit al-Muti`i (d. 1935), who had served as Egypt's grand mufti from 1915 to 1920.⁵⁴ As with practically everything he wrote, Rida's detailed response, together with the Hyderabad mufti's query, was serialized in *al-Manar* and later published as a book.⁵⁵

⁵³ Muhammad Rashid Rida, *al-Riba wa'l-mu`amalat fi'l-Islam* (Port Sa`id: Maktabat al-thaqafa al-diniyya, 2001), 65.

⁵⁴ On Bakhit al-Muti`i, see Skovgaard-Petersen, *Defining Islam*, 133–45.

⁵⁵ *al-Manar* 30 (1929–30), 273–91, 419–39, 501–4, 584–92, 665–72, 771–6; Rida, *al-Riba wa'l-mu`amalat fi'l-Islam*. My references are to the latter version, unless otherwise noted. For a brief account of Rida's earlier discussions of *riba*, see Chibli Mallat, “The Debate on *Riba* and Interest in Twentieth Century Jurisprudence,” in Chibli Mallat, ed., *Islamic Law and Finance* (London: Graham & Trotman, 1988), 71–4. Oddly, Mallat does not discuss Rida's treatise on *riba*.

The author of this query, Mufti `Abd al-Latif, was a respected scholar and teacher. Although Rida tells us little about him, `Abd al-Latif was then teaching at the theology faculty of Osmania University in Hyderabad, chartered by the state's ruler a decade earlier. He had earlier served as a mufti at the Nadwat al-`Ulama in Lucknow and taught for some time at a madrasa in Mecca, which had been endowed there by a wealthy Indian woman in the late nineteenth century.⁵⁶

The gist of Mufti `Abd al-Latif's argument, to which he sought the `ulama's response, was that the *riba* forbidden in the Qur'an and in Islamic law related only to certain commercial transactions and that ordinary loans on interest were not covered by this prohibition. He noted that Muslim jurists had once frowned upon charging money for the teaching of the Qur'an as well as other religious functions, but they had eventually come to allow it in view of public need (*hajat al-nas*);⁵⁷ the charging of interest on loans was likewise permissible because it helped encourage the meritorious act of giving out a loan to those in need. Following Ibn `Abidin (d. 1836), the influential Hanafi jurist of nineteenth-century Ottoman Damascus, the Hyderabad mufti also suggested that practices that had become customary should be left unchanged, for to alter them would cause great hardship to the people; and certain financial transactions involving interest were, indeed, a matter of customary practice.⁵⁸

In his response, Rida praises `Abd al-Latif's learning, going so far as to suggest that the mufti merited being counted among mujtahids in his Hanafi school of law – that is, as someone who was capable of independent thinking within the parameters of his school.⁵⁹ This is at best a backhanded compliment, however, for Rida then proceeds to question the mufti's views, arguing that his Hanafi perspective had distorted his understanding of the foundational texts.⁶⁰ In laying out his own position, Rida invokes a familiar distinction between the *riba* that consisted, in pre-Islamic Arabia, of a stipulated addition (*fadl*) to the loaned capital and that which took the form of an exorbitant charge in the event that the debtor was unable to repay the loan on time (*riba al-nasi'a*). Rida acknowledges that both forms of *riba* are forbidden in Islamic law, but he insists that it is the second kind – wherein the debtor found himself trapped in a spiraling usurious cycle – that is the main target of the Qur'anic prohibition. He follows the medieval Hanbali scholar Ibn Qayyim al-Jawziyya (d. 1350) in arguing that the former kind of *riba* had come to be prohibited not because it was forbidden in itself, but lest it lead Muslims on to engage in forbidden transactions. Given, however, that this prohibition was not for its own sake but rather as a way of avoiding (*sadd al-dhari'a*) the really

⁵⁶ For these biographical details, see the editor's note in Minnat Allah Rahmani, ed., *Makatib-i Gilani*, vol. 1 (Mongir: Dar al-isha'at-i Rahmani, 1972), 195 n. 1.

⁵⁷ Rida, *al-Riba*, 58 n. 1. For the full text of `Abd al-Latif's query, see *ibid.*, 9–59.

⁵⁸ *Ibid.*, 57 n. 1.

⁵⁹ *Ibid.*, 61.

⁶⁰ *Ibid.*, 61 and *passim*.

ruinous forms of usury, it could be reversed as needed in light of the common good.⁶¹ Indeed, Rida reports, the caliph `Umar, Muhammad's second successor, was much perturbed by his failure to have clarified the question of riba before the Prophet's death. And before his own death, `Umar is reported to have worried that this uncertainty may have led him to "add ten-fold to [the restrictions on] riba."⁶² Subsequent generations, Rida says, had themselves added enormously to the stringency of such restrictions,⁶³ thereby causing great hardship to the believers.

Rida takes the Hyderabad mufti's query as an opportunity not merely to clarify the vexed question of interest but also, as was his wont, to settle other scores. The main target here is the practice of adhering to the norms of the medieval schools of law, in this case, the Hanafi madhhab. To Rida, the mufti was constrained to make untenable distinctions between commercial transactions and interest-bearing loans, to resort to the sort of clever tricks (*hiyal*) for which the Hanafi school was notorious, and to misconstrue the teachings of the foundational texts because he was reading things through the lens of his school doctrine.⁶⁴ Ironically, however, although he arrives at it through a very different sort of reasoning, Rida's views on the question of riba are ultimately not very different from those of the Hyderabad mufti. Both agree in the end on the legitimacy of loans at interest, a remarkable position in view of the long history of the prohibition of financial interest in Islamic legal thought.⁶⁵ More broadly, they also agree – even though Rida did not make it explicit in this instance – that people's needs continue to evolve and that Islam has the resources to address them in satisfactory and non-oppressive ways.

The similarities between the views of Rida and `Abd al-Latif are further highlighted by a very different response the Hyderabad mufti had received to the same query. Mufti `Abd al-Latif had also sent his query to Ashraf `Ali Thanawi. The response, written by Zafar Ahmad `Uthmani (d. 1974), a prolific disciple of Thanawi, took the form of a detailed and harshly worded rejection of the idea that *any* form of interest-based transaction could be deemed permissible.⁶⁶ `Uthmani

⁶¹ Ibid., 132. For the long quotation from Ibn Qayyim al-Jawziyya, see *ibid.*, 125–37. For the latter's discussion in its own context, see Ibn Qayyim al-Jawziyya, *ʿIlam al-muwaqqiʿin*, 4 vols., ed. Taha `Abd al-Ra'uf Sa'd (Beirut: Dar al-jil, 1973), 2: 153–65.

⁶² Rida, *Riba*, 103.

⁶³ Ibid., 105.

⁶⁴ Ibid., 61, 110, 122, and *passim*.

⁶⁵ Note that Rida's view of interest is considerably more permissive than that of `Abd al-Razzaq al-Sanhuri (d. 1971), the architect of the codification of law in Egypt. Unlike Rida (whom he quotes and criticizes), Sanhuri argues that *all* forms of riba are forbidden. Given, however, that the contemporary world's economies are dominated and shaped by an interest-based capitalist system, transactions based on interest are unavoidable, but they are in the nature of necessities that make forbidden things temporarily permissible. See `Abd al-Razzaq al-Sanhuri, *Masadir al-haqq fi'l-fiqh al-Islami*, 6 vols. 3rd ed. (Cairo: Ma'had al-buhuth wa'l-dirasat al-`Arabiyya, 1967), 3: 176–249, esp. 219ff., 241, 244, 249.

⁶⁶ Zafar Ahmad `Uthmani, "Kashf al-duja `an wajh al-riba," in Ashraf `Ali Thanawi, *Imdad al-fatawa*, ed. Mufti Muhammad Shafi', 6 vols. (Karachi: Maktaba-i Dar al-`Ulum, 2004), 3: 179–301. The fatwa is dated 1929. For a brief discussion, see Zaman, *Ashraf `Ali Thanawi*, 70–2.

ridiculed `Abd al-Latif for implicitly laying claim to some of the authority of a mujtahid in deriving legal norms afresh from the foundational texts and – going beyond even a mujtahid – setting aside the consensus of the earlier jurists.⁶⁷ He also took issue with the idea that custom could render particular norms legitimate, and he contested `Abd al-Latif's reading of Ibn `Abidin on this score.⁶⁸ Sadly for `Abd al-Latif, if Rida's unacknowledged agreement with the substance of `Abd al-Latif's claims had not improved his view of this madhhab-based mufti, the allegiance to Hanafism that the mufti shared with the Deobandis had done nothing to endear him to Thanawi and his disciples either. For our purposes here, the interest of such exchanges lies less in their content or tone, however, and more in the conceptions of the common good that they both point to and help constitute.

Rida's response to the Hyderabad mufti's query was very much a "public" affair: it was serialized in his influential journal and then brought out as a book. Zafar Ahmad `Uthmani's response, too, appeared several times: first in a periodical called *al-Nur*, which was published from Thanawi's Sufi lodge in Thana Bhawan and which regularly carried the fatwas issued by Thanawi and his associates; then in a collection of Thanawi's fatwas; and finally as part of a multivolume hadith commentary by Zafar Ahmad `Uthmani.⁶⁹ Appended to the text of the fatwa in this commentary are a number of endorsements that were solicited from leading religious scholars of the time, underscoring not just the fatwa's authority but also its broad circulation in the religious sphere. Anwarshah Kashmiri was one of these scholars, and he praises the fatwa for its explication of legal principles that go beyond the problem in question.⁷⁰ Rida, too, had explicitly presented his response to the Hyderabad mufti as being about larger issues – an argument, in his case, against taqlid and *for* maslaha. Even where they did not turn into discourses on maslaha, however, the exchanges reflected, defended and, we might add, shaped particular conceptions of where the Muslim common good lay. Did it lie in assiduously following the prescriptions of the law as articulated by the medieval schools? Did it consist, rather, in drawing on the school's own interpretive methods to relax well-established strictures on particular practices? Or was it best pursued, instead, by explicitly renouncing school boundaries in light of the foundational texts?

The debate on riba continued, and does so today, although we must limit ourselves to mentioning only a few more instances of it here. About fifteen years after the controversy generated by Mufti `Abd al-Latif's query, another very public

⁶⁷ `Uthmani in Thanawi, *Imdad al-fatawa*, 3: 184–6.

⁶⁸ *Ibid.*, 3: 294–301. In marked contrast with `Uthmani, Rida had not commented on `Abd al-Latif's invocation of Ibn `Abidin or on `Abd al-Latif's assertion that particular norms must change with changing needs. The idea was very much in keeping with Rida's thinking, of course. However, as noted earlier, he did not always like it when his opponents invoked it in support of their arguments.

⁶⁹ See Zafar Ahmad `Uthmani, *l'la al-sunan*, ed., Hazim al-Qadi, 21 vols. (Beirut: Dar al-kutub al-`ilmiyya, 1997), 14: 584–629.

⁷⁰ *Ibid.*, 632–3. For other endorsements, see *ibid.*, 630–59.

debate erupted with an article on the question of the permissibility of interest-based transactions in lands governed by non-Muslims. The author of the article was Manazir Ahsan Gilani (d. 1956), who had studied hadith at the Dar al-`Ulum of Deoband with Anwarshah Kashmiri and, in the mid-1940s, was the head of the theology faculty at Osmania University. `Abd al-Latif, too, had taught at the same department and the two men knew each other.⁷¹

In the article in question, Gilani argued that it was permissible for Muslims living under non-Muslim rule to enter into interest-based financial dealings with non-Muslims. Abu Hanifa (d. 767), the eponymous founder of the Hanafi school, and one of his star pupils, Muhammad al-Shaybani (d. 805), had held this view, but it was contested by other influential Hanafis. In the wake of the British takeover of Delhi in the early nineteenth century, Shah `Abd al-`Aziz (d. 1824), a son of Shah Wali Allah, had argued that India had ceased to be the “abode of Islam” (*dar al-Islam*) and thus had become the “abode of unbelief” (*dar al-harb* [literally, “abode of war”]), and that the prohibition on interest was therefore no longer in effect. The question whether India really was the abode of unbelief was a much-contested matter among scholars. Gilani, however, shows little interest in this debate, except by way of clarifying the legal status of Muslim transactions in lands under non-Muslim rule. To him, interest-based dealings in such lands are not *riba*.⁷² But as he sees it, this is not the same thing as saying that it was permissible to engage in *riba* outside the lands of Islam. The point, in other words, is not that a forbidden matter becomes permissible as soon as one steps out of Muslim lands, any more than it is permissible to cheat people if they are not Muslims.⁷³ The point is, rather, that the category of *riba* simply does not include transactions – even when they are interest-based – that take place in non-Muslim lands.⁷⁴ At issue in this fine distinction is Gilani’s desire to defend Abu Hanifa against the perception that he had condoned Muslim violation of Islamic legal norms outside Muslim territories.⁷⁵ But Gilani’s larger concern is to maintain the integrity of Islamic ethical commands. Muslims are bound to act ethically even when outside their own lands; indeed, they are bound to continue following non-Islamic laws in effect in such lands even when they have no specific *Islamic* reason to do so. By the same token, Gilani argues, if matters such as interest-based transactions are upheld by non-Islamic laws in non-Muslim lands, it is permissible for Muslims to benefit from them.

⁷¹ This had not stopped Gilani from endorsing the fatwa of Zafar Ahmad `Uthmani: see *I`la al-sunan*, 14: 650–1.

⁷² Manazir Ahsan Gilani, “Mas’ala-i sud Muslim wa harbi main,” *Ma`arif* 56/5 (1945): 269–91.

⁷³ *Ibid.*, 280–1.

⁷⁴ *Ibid.*, 289. Also see Manazir Ahsan Gilani, *Islami ma`ashiyyat* (Karachi: Dar al-isha`at, n.d. [2002; first published in 1945]), 323–6. Cf. Husayn Ahmad Madani, undated letter to `Abd al-Haqq Madani in *Maktubat-i Shaykh al-Islam*, ed. Najm al-din Islahi, 4 vols. (Deoband: Maktaba-i diniyya, 1963), 1: 20 (#4).

⁷⁵ Gilani, “Mas’ala-i sud,” *Ma`arif* 56/5 (1945): 289–90.

The response came from none other than Zafar Ahmad `Uthmani, the author of the earlier rejoinder to Mufti `Abd al-Latif. In this instance, `Uthmani argues that financial interest is categorically forbidden by Islam and that Muslims are subject to the same rules irrespective of whether they live in Muslim or non-Muslim lands.⁷⁶ At issue here is the question not whether Muslims ought to adhere to their sacred law – for, on this, both agreed – but what the scope and limits are of that law and what it required of the believers in particular contexts. Are Muslims best advised to strictly adhere to an invariant law irrespective of circumstances, or might the law have somewhat different prescriptions under different conditions? Underlying this exchange is the question, which only Gilani addresses more or less explicitly, whether something other than strict adherence to the shari`a might be necessary to promote the Muslim common good. In turn, this question points to a continuing tension, in Gilani's exchanges with `Uthmani, between the *principled* view that interest-based transactions in lands under non-Muslim rule are not the *riba* condemned by the Qur'an and the *pragmatic* view that Muslims should not be the only ones hurting themselves by refusing to receive interest when it is due to them. Gilani writes:

While prohibiting usury and suggesting means towards eliminating it, Islam has kept certain paths open for Muslims whereby they can save themselves from falling prey to international financial competition and being swallowed up by other nations. Is [the availability of such options] too much to expect from the All-Knowing Maker of Islamic law? Islam does not teach Muslims the impractical and unnatural idea of turning the other cheek Until when will we watch Muslims being swallowed up by those other people who benefit from financial interest, with Muslims unable to do anything in response to this ill? Is this what Islam as the "religion of nature" demands of them?⁷⁷

Though Gilani does not see or acknowledge it, a principled stance seems, in this lament, to have gradually shaded into a more or less pragmatic one, with the Muslim common good being the implicit justification for it.

A generation earlier, Rashid Ahmad Gangohi (d. 1905), one of the founding fathers of the Dar al-`Ulum madrasa at Deoband, had held a view very similar to Gilani's in affirming that it was permissible for the Muslims of India to receive financial interest from the Hindus as well as the British. Gangohi had apparently prepared a fatwa to this effect, but as Husayn Ahmad Madani, Deoband's head professor, later wrote, "he did not publish this fatwa in view of people's *maslaha*."⁷⁸

⁷⁶ For the full exchange, see Zafar Ahmad `Uthmani, "Ghayr Islami mamalik main sud wa qimar wa-ghayrah ka hukm," *Ma`arif* 56/5 (1945): 107–13. For other exchanges, see *Ma`arif* 56/6 (1945): 341–61 (Gilani); *ibid.*, 57/1 (1946): 5–31 (Gilani); *ibid.*, 58/3 (1946): 217–22 (`Uthmani); *ibid.*, 58/5 (1946): 343–59 (`Uthmani); *ibid.*, 58/6 (1946): 468–9 (Gilani); *ibid.*, 59/1 (1947): 62–3 (`Uthmani).

⁷⁷ Gilani, "Mas'ala-i sud," *Ma`arif* 57/1 (1946): 27.

⁷⁸ See Husayn Ahmad Madani's undated letter to `Abd al-Haqq Madani in *Maktubat-i shaykh al-Islam*, 1: 17 (#4).

According to Madani, the fear was that while the Muslims would not usually be able to charge the Hindus interest, because they seldom needed to borrow money from Muslims, a fatwa legitimizing the charging of interest would instead enable “worldly Muslims to rob poor Muslims of their property, since the [latter] would now consider it legitimate to pay interest to them.”⁷⁹ Though both Gangohi and Gilani recognized interest-based transactions in the abode of unbelief as legitimate, it is instructive to note that their understanding of how this permission contributed to the common good differed markedly. Being able to receive interest served the Muslim good in Gilani’s view but would have hurt it in Gangohi’s estimation, which is why he had refused to publicize his fatwa on the matter.⁸⁰

The debate between Manazir Ahsan Gilani and Zafar Ahmad `Uthmani had taken place on the eve of the end of British colonial rule, the partition of the Indian subcontinent, and the establishment of Pakistan as a Muslim homeland. As would be recalled, the Deobandis were bitterly divided on the question of whether or not to support the demand for Pakistan. Some thought that Muslims would eventually lose their distinct religious identity in a sea of non-Muslims unless they established their own, separate homeland, one in which shari`a norms would be paramount. `Uthmani was among the most active of the Deobandi `ulama who held this view. Other Deobandis, with Madani at their helm, argued that the preservation of Muslim religious and cultural identity depended on their adherence to proper Islamic norms, not on the creation of a separate state. They were also highly suspicious of the westernizing political elite that led the demand for Pakistan. Gilani was in this camp and, unlike `Uthmani, he continued to live in India till his death in 1957.

The debate on financial interest has continued in Pakistan. Although we cannot examine it in any detail here,⁸¹ it is worth catching a glimpse of where it stood towards the beginning of the twenty-first century. Not surprisingly, the westernized governing elite have fervently resisted, on grounds of sheer impracticality, any effort by the Islamists and the `ulama to brand financial interest as illegitimate and to have it outlawed. At least in symbolic terms, the Islamizing regime of General Zia al-Haqq (r. 1977–88) and some of his successors marked a significant departure from this position. The quest for an “interest-free economy” was the cornerstone of Zia al-Haqq’s Islamization, and it has not ceased to have its advocates and its opponents.

In 1991, the Federal Shari`at Court, an institution established by Zia al-Haqq to determine the conformity of the existing laws with the shari`a, had issued

⁷⁹ Ibid., 1: 18.

⁸⁰ It is no surprise that this juristic opinion is not to be found in the collection of Gangohi’s fatwas. See Rashid Ahmad Gangohi, *Ta’lif-i rashidiyya ma’ a fatawa rashidiyya* (Lahore: Idara-yi Islamiyyat, 1992).

⁸¹ For a brief discussion, see Muhammad Qasim Zaman, “Religious Discourse and the Public Sphere in Contemporary Pakistan,” *Revue des mondes musulmans et de la Mediterranee* 123 (2008): 55–73.

a detailed ruling stipulating that the Pakistani government end all transactions based on financial interest. In 1999, this ruling was upheld by the Shari`at Appellate Bench of the Pakistan Supreme Court, which had set a deadline of June 30, 2001 – later extended to June 30, 2002 – for Pakistani banks to end their interest-based transactions. Rather than adopt the well-trodden path of requesting further extensions to such deadlines, the government of General Pervez Musharraf decided to confront the issue head on by seeking a new verdict from the Shari`at Appellate Bench, whose membership was reconstituted to secure a favorable decision. In its new ruling, given in June 2002, the Shari`at Appellate Bench – the country’s highest court of appeal in matters of Islamic law – set aside its 1999 decision and returned the case to the Federal Shari`at Court “for determination afresh.”⁸² It has languished in that court ever since.

Even though the decision itself was a predictable one, part of its significance for our purposes lies in the detailed press coverage the court proceedings received on this occasion. The arguments of the appellants and the defendants were reported at length, and the entire text of the Shari`at Appellate Bench’s decision was reproduced in the national press. The names of many prominent intellectuals and scholars who had written on financial interest over the course of the past hundred years and more were tossed about during the proceedings. Among them was Rashid Rida, who was mentioned among those the authors of the 1991 Federal Shari`at Court decision had allegedly ignored in their verdict against financial interest.⁸³

The 2002 decision of the Shari`at Appellate Bench also deserves notice, of course, for its invocation of the common good and related ideas. The judges wrote, in clear sympathy with arguments they were summarizing:

... the cases of pensioners, widows, etc. were brought to our notice and it was urged that the continuance of the present day banking system and the government-sponsored savings schemes as well as the transactions which lack[ed] the ingredient of ... exploitation ... as envisaged by the Holy Quran and Sunnah was in the *larger interest and welfare of the people*. It was also urged that in case the judgement [against financial interest] is implemented, it would lead to chaos and anarchy in the country and a duty is cast on an Islamic State to take all steps which are necessary in the *public interest and the welfare of the people* ...⁸⁴

The implication here is that an economic system that seeks the betterment of the people *is* Islamic, for this is what the Islamic foundational texts ultimately stand for. The `ulama’s Islam, on the other hand, is tied to outmoded forms and concepts and, because these only exacerbate people’s economic woes, they can hardly further the common good or, what amounts to the same thing, serve the true interests

⁸² For the ruling, see Rafaqat Ali, “FSC to Decide Riba Case Afresh: Supreme Court Sets Aside Earlier Judgement,” *Dawn*, June 25, 2002.

⁸³ Ibid.

⁸⁴ Ibid., emphasis added. Also see “Not All Forms of Riba are Prohibited: Counsel,” *Dawn*, June 18, 2002.

of Islam. It was in this vein that the counsel representing the government had at one point made the extraordinary statement that the `ulama themselves were “the main hurdle in the Islamisation process in the country.”⁸⁵

No side came out very well in the debate. The defendants – arguing for the ban on all forms of interest – had presumptuously claimed that “*all* ulema were unanimous . . . that any amount, big or small, over the principal in a contract of loan or debt was *riba*.”⁸⁶ The opposing side did not reveal any impressive grounding in matters Islamic, and it was far from scrupulous in how it invoked its authorities. Yet it was able to cast considerable doubt on whether there was in fact any overarching consensus on the question of financial interest. Some of those who were claimed or insinuated as supporting forms of financial interest would surely have balked at their inclusion in any such category.⁸⁷ Others, such as Mahmud Shaltut and Muhammad Sayyid Tantawi, both rectors of al-Azhar, were more persuasive choices.⁸⁸ A lawyer for the defense, representing the Islamist Jama`at-i Islami, objected weakly that “the opinion of the scholars of al-Azhar . . . should not be relied upon as they had also approved the use of contraceptives.”⁸⁹ Leaving aside the medieval history of the debate on contraception itself,⁹⁰ this served only to show the scope of disagreement within the ranks of modern Islam’s `ulama – which is precisely what the defense did not want.

Despite the predictable outcome of this case and the bruising exchanges that had preceded it, the debate had highlighted much more than disagreements on *riba*: it had put on display some of the contestation that attended upon claims of consensus, about loci of religious authority, and not least, on ideas of the common good. Irrespective of whether the `ulama acknowledged the legitimacy of any such debate, they were, and are, clearly part of it. Nor is the debate limited to those opposing all forms of financial interest (the defendants in the 2002 case) and those seeking to legitimize it (the appellants in that case). Pakistani `ulama have themselves come to be ranged on different sides on the question of so-called Islamic banking, an important expression of the Islamic resurgence since the 1970s. `Ulama like Taqi `Uthmani have been at the forefront of those arguing that Islamic banks offer a valid alternative to interest-based transactions even as they allow Muslims to participate in the world economy (also see [Chapter 7](#)). However, other `ulama have taken strong exception to such banks, claiming that they are Islamic in

⁸⁵ “Ulema a Hurdle in Islamization Process, Says Counsel,” *Dawn*, June 19, 2002.

⁸⁶ “Any Amount over Principal is Riba, Says Counsel,” *Dawn*, June 22, 2002. Italics mine.

⁸⁷ For instance, Shah Wali Allah, Anwarshah Kashmiri, and Ashraf `Ali Thanawi, among others, are adduced in the course of arguments in favor of the legality of certain forms of financial interest. *Dawn*, “Ulema a Hurdle”; Ali, “FSC to Decide.” There is little to suggest that any of these scholars would have agreed with this characterization of their views.

⁸⁸ Ali, “FSC to Decide.” For Shaltut’s position on financial interest, see Mahmud Shaltut, *al-Fatawa*, 7th printing (Cairo: Dar al-shuruq, 1974), 353–5; on Tantawi’s fatwa, see Skovgaard-Petersen, *Defining Islam*, 295–318.

⁸⁹ *Dawn*, “Any Amount.”

⁹⁰ See Basim Musallam, *Sex and Society in Islam* (Cambridge: Cambridge University Press, 1983).

name only and that doing business with them is no more legitimate than dealing with conventional banks. Discussions of the common good are not explicit in these last-mentioned debates, but they are not far below the surface either. For the contestation here is on how the welfare of people is best promoted: by boycotting ubiquitous financial institutions in the name of the shari`a or by “Islamizing” these banks just enough to not have to opt out of modern economic life altogether.⁹¹

If Islamization and its effects have been a major part of the context of the debate on financial interest in Pakistan, the economic vulnerability of an impoverished and increasingly marginalized Muslim minority in the face of an overwhelming Hindu majority constitutes its principal backdrop in contemporary India. In its August 1991 session, India’s Islamic Fiqh Academy took up the question of whether life and property insurance were permissible in Islamic law. The standard answer to this question is, of course, that they are not: death and the loss of property are unpredictable matters, and as such, they fall under the Qur’anic prohibition of gambling and games of chance (Q 5.90). Further, insurance typically involves financial interest, which again is deemed to be prohibited by Islam. These were extraordinary times, however, and there was a sense of urgency to the deliberations of the Fiqh Academy. As we saw in the previous chapter, Hindu nationalism was on the rise at this time, with Hindu-Muslim riots taking place throughout India. In 1991, the Hindu nationalist Bharatiya Janata Party had dramatically increased its parliamentary membership (it was 2 in 1984 and 118 in 1991),⁹² and the Baburi Masjid itself would be demolished a year later.

As several participants in the 1991 Fiqh Academy seminar noted, it was bad enough that Hindu-Muslim riots caused grave and often irreparable damage to Muslim life and property. Worse still, such riots had sometimes been provoked by Hindu nationalists to systematically target Muslim businesses in areas where Muslims were relatively prosperous. Government functionaries at local and other levels had, for their part, allegedly stood aside in the face of such destruction, and some had even aided the Hindu nationalist rioters. Even as individual participants in the seminar repeatedly underlined that insurance was prohibited by Islamic law, the general sentiment was that it could provide some measure of economic security to Muslims and was therefore permissible in extreme circumstances.⁹³

Manazir Ahsan Gilani’s aforementioned views on the legitimacy of interest-based transactions in a land governed by non-Muslims were also invoked at the 1991 seminar. As Zafir al-din Miftahi (d. 2011), a leading mufti from the Deoband madrasa who later served as the Fiqh Academy’s president, put it, “if we were to

⁹¹ For a brief overview of this debate, see Muhammad Zahid, “Bila-sud bankari ka tanqidi ja’iza,” part 1, *al-Shari`a* 21/5 (2010): 30–9.

⁹² Ahmad, *Islamism and Democracy*, 168.

⁹³ For various contributions on the question of insurance and its validity on Islamic grounds, see Mujahid al-Islam Qasimi, ed., *Currensiyon ka tabadala awr Hindustan main insurance* (Deoband: Kutub khana-i na`imiyya/Islamic Fiqh Academy, 2006), 205–581. For assertions that Muslim properties had been systematically targeted by Hindu nationalists, see, for instance, *ibid.*, 238.

accept the late Mawlana's [i.e., Gilani's] opinion at this time, many of the problems faced by Muslims would be solved and the sphere [of the law] would be enlarged."⁹⁴ This reference to Gilani is significant, for it suggests that while most participants in the debate on insurance viewed all interest-based transactions as illegitimate and were willing to countenance permitting them only in the most extreme circumstances, some, like the Deoband mufti quoted here, were considerably more open to the *overall* legitimacy of such transactions in the Indian context. As has been seen, Gilani's views took account of the unfavorable economic circumstances in which Muslims found themselves in the modern capitalist system, but he was not thinking specifically of the threat to Muslim economic well-being posed by Hindu-Muslim riots. In other words, despite the implicit tension between a principled and a pragmatic justification, his permissive position was far broader in scope than most other `ulama, of his or later times, have been comfortable with. The Deoband mufti's invocation of Gilani clearly gestures toward that broadly permissive position.

A somewhat similar initiative toward broadening the scope of the law is found in a subsequent seminar of the Fiqh Academy, held in 1994, which focused on the question of what constituted urgent "necessities" and important "needs" and how to deal with them.⁹⁵ In his contribution to the proceedings, Khalid Sayf Allah Rahmani, now the general-secretary of the Fiqh Academy, notes that some medieval jurists have tended to see necessity as involving matters of life and death – in which case forbidden things can become permissible – whereas unfulfilled needs can cause much hardship but do not result in life-threatening situations. Others, notably the medieval Andalusian jurist Shatibi, have taken a considerably more expansive view of necessities, tying them to the religious and worldly interests of the people even when such unfulfilled necessities do not lead to dire straits. It is this second view that Rahmani endorses.⁹⁶ From this perspective, there is no clear distinction between necessities and needs,⁹⁷ which means that stringent legal norms can be relaxed and replaced with others even in less than extreme circumstances. Concomitantly with this view, Rahmani and some other `ulama of the Fiqh Academy have also argued that needs do not have to be broadly shared – that is, be common or public – to be cognizable in legal terms. This means that even an individual, qua individual, might legitimately resort to a certain course of action otherwise forbidden by Islamic law to get out of a particularly difficult situation. Taking out a loan at interest is an obvious example here.⁹⁸

⁹⁴ Zafir al-din Miftahi, "Insurance," in *ibid.*, 230–5, at 234.

⁹⁵ Mujahid al-Islam Qasimi, ed., *Darurat wa hajat ka ahkam-i shar`iyya main i`tibar* (Karachi: Idarat al-Qur'an wa'l-`ulum al-Islamiyya, 2001).

⁹⁶ Khalid Sayf Allah Rahmani, "Fiqh-i Islami main darurat wa hajat ki ri'ayat awr uske hudud dawat," in Qasimi, ed., *Darurat wa hajat*, 58–92, especially 58–62; cf. *ibid.*, 7. For Shatibi's definition of necessities, see his *al-Muwafaqat fi usul al-shari'a*, 4 vols. (Cairo, al-Maktaba al-tijariyya, n.d.), 2: 8.

⁹⁷ Rahmani, "Fiqh-i Islami main darurat," 64.

⁹⁸ *Ibid.*, 83.

Rahmani's views contrast markedly with those of Taqi `Uthmani of Pakistan. Taqi `Uthmani had participated in the Fiqh Academy's 1991 seminar, where the question of insurance was debated, and he had presided over the opening session. In his address, Taqi `Uthmani cautioned precisely against taking an expansive view of necessities, arguing that the infiltration of Western ideas into Muslim societies had created a certain propensity to regard as necessities things that fell short of fitting any such characterization. Muslim scholars needed to find adequate solutions to problems that *really* constituted necessities of the age. But they should not merely submit to Western propaganda on what counted as contemporary necessities, for to do so "would spell the end of the Muslim community."⁹⁹ Taqi `Uthmani went on to also caution against taking liberties with the sacred law on grounds of personal interest (*dhati mufad*).¹⁰⁰ Yet for all the high regard that Taqi `Uthmani is held in by many fellow Deobandis, including those of India, the thrust of the Fiqh Academy's own deliberations on the question of necessity and need was very different from what he was recommending to them. Ironically, Taqi `Uthmani himself has been castigated by some Pakistani `ulama precisely for clothing questionable financial instruments in a shari`a garb,¹⁰¹ although he does so not by invoking necessity or even maslaha to sidestep shari`a norms but rather by ingeniously mobilizing what purport to be the shari`a's own resources.

My final example here of the debate on financial interest comes from the European Council for Fatwa and Research (ECFR), briefly mentioned in the previous chapter. In response to some of the difficulties faced by another Muslim minority, that of Western Europe, the ECFR `ulama ruled in 1997 that it was permissible for Muslims to buy a house on mortgage. The discomfort of these `ulama with the idea of legitimizing interest-bearing mortgage is palpable in their fatwa. Some years earlier, Qaradawi, the president of the ECFR, had himself written a hard-hitting critique of a fatwa by Muhammad Sayyid Tantawi, then the grand mufti of Egypt, in favor of the legitimacy of financial interest.¹⁰² Qaradawi had argued on that occasion that there was a veritable consensus on the prohibition of all forms of interest and, at the very least, an equally weighty consensus needed to be arrived at to overrule it.¹⁰³ Nonetheless, in 1997, a majority of the ECFR scholars, with Qaradawi at their helm, came to argue that home ownership was a necessity in the European context. This was so not only because it provided people with peace of mind but also because, on the assumption that their homes would be close to mosques and Islamic schools, it would help foster a Muslim community within the

⁹⁹ Muhammad Taqi `Uthmani, "Khutba-i sadarat," in Qasimi, ed., *Currensiyon ka tabadala*, 45–55, at 50–1.

¹⁰⁰ *Ibid.*, 52.

¹⁰¹ See [Chapter 7](#), n. 154.

¹⁰² Yusuf al-Qaradawi, *Fawa'id al-bunuk hiya al-riba al-haram* (Beirut: Mu'assasat al-risala, 1993). On Tantawi's fatwa, see n. 88.

¹⁰³ *Ibid.*, 69–70.

larger European context.¹⁰⁴ The ECFR's mode of reasoning was intended to keep the prohibition against financial interest intact while seeking a necessity-based exception from it. Not surprisingly, it left many people unconvinced. Apart from dissenters within the ECFR, there were many in the Muslim world who criticized the fatwa for contravening the Islamic prohibition of financial interest, for taking too expansive a view of necessity and, in an echo of Rida's aforementioned dilemma, for undermining the authoritative character of Islamic law by making it inordinately responsive to perceived needs.¹⁰⁵ With all this controversy, the fatwa has become one of the best known of the ECFR's many juridical pronouncements. Significantly, and irrespective of its success in convincing people, it has helped "create . . . a much larger space for debate and criticism"¹⁰⁶ than had previously existed on this issue in the global Muslim public sphere.

The foregoing should suffice to illustrate the sort of contestation that characterizes not only the world of the `ulama but also the larger public spheres they inhabit and interact with. Debates on financial interest have sometimes explicitly raised the question of the common good. Even when that is not the case, however, such contestation provides us with some insight into the particular conceptions of the common good that underlie these debates. It reveals that conceptions of the common good are varied, that they not only come into conflict with one another but also continue to evolve in response to particular contexts, and, not least, that it is precisely in response to rival conceptions that they are often articulated in the first place. For its part, the public sphere, of which the `ulama and other religious intellectuals are but one segment, is not just the arena of such contestation; it may be said to be shaped by this contestation.

Probably the best recent illustration of this last point, besides the ECFR, is provided by the work of India's Fiqh Academy, which seeks to foster debate on particular matters as a way of eventually forging a consensus on them. In the process, as has been seen, a variety of views are aired and disseminated. Not all `ulama, even among the Deobandis, are equally on board on positions that receive the imprimatur of the Fiqh Academy; and, on some controversial matters, the academy has either postponed adopting a clear position or urged ordinary believers to consult with `ulama in their localities. It is not unreasonable to assume that such local `ulama are sometimes more conservative than those endorsing particular positions at the Fiqh Academy seminars.¹⁰⁷ Conversely, some among them may be considerably *less* conservative than leading figures at prominent institutions. It is noteworthy, for instance, that the Dar al-`Ulum of Deoband has often harbored a

¹⁰⁴ For the English text of the fatwa, see <http://www.e-cfr.org/en/index.php?ArticleID=277> (accessed December 15, 2009). For a discussion of this fatwa, the debates leading up to it, and the reactions to it, see Alexandre Caeiro, "The Social Construction of Shari'a: Bank Interest, Home Purchase, and Islamic Norms in the West," *Die Welt des Islams* 44 (2004): 351–75.

¹⁰⁵ For a discussion of these and other reactions, see Caeiro, "Social Construction," 361–7, esp. 362–4.

¹⁰⁶ *Ibid.*, 370.

¹⁰⁷ For a similar point, cf. *ibid.*

degree of suspicion of the work of the Fiqh Academy, and yet individual Deobandi scholars – including not just graduates of this madrasa but even some of those teaching there – have been willing to associate themselves with the academy. The articulation and dissemination of particular views at the academy’s forums serve, in any case, to move the debate in new directions. Even though our focus here is on arguments among the `ulama, and it is the `ulama that the Fiqh Academy primarily seeks to both educate in and empower with new ways of thinking about Islamic law and about the world they inhabit, the publication of its proceedings clearly indicates that the audience comprises a much larger public. As Michael Warner has observed in another context:

even texts of the most rigorously argumentative and dialogic genres also address onlookers, not just parties to argument When appearing in a public field, genres of argument and polemic must accommodate themselves to the special conditions of public address; the agonistic interlocutor is coupled with passive interlocutors, known enemies with indifferent strangers, parties present to a dialogue situation with parties whose textual location might be in other genres or scenes of circulation entirely.¹⁰⁸

To the extent that members of the Muslim reading public, too, are part of the academy’s audience, it is scarcely far-fetched to assume that its work puts some pressure on local religious scholars to explain themselves to their particular audiences on why they favor or oppose the positions being put forth by people elsewhere. And if “a public is a space of discourse organized by nothing other than discourse itself,”¹⁰⁹ then such debates do not simply inform and educate a public but also continue to fashion and reorganize it.

THE PUBLIC SPHERE AND THE COMMON GOOD

The `ulama typically argue that the shari`a is ultimately the criterion of what counts as the common good and that devices such as *maslaha* merely extend, to better realize, what is already provided for in the shari`a.¹¹⁰ Yet they must constantly debate with their peers and others over the meaning of “true” Islam, what Islam asks of people in any situation, the goods that Islam secures beyond, say, the five fundamental values safeguarded by the shari`a, and how even these are to be ranked or just how they are to be safeguarded. This is the sort of public discourse through which the common good *becomes* the site of contestation – an ongoing “social and

¹⁰⁸ Michael Warner, *Publics and Counterpublics* (New York: Zone Books, 2002), 90–1.

¹⁰⁹ *Ibid.*, 67.

¹¹⁰ Cf. Qaradawi, *al-Ijtihad al-mu`asir*, 68–70, commenting on the adage “wherever there is God’s law, there is *maslaha*.” On occasion, Rida seems to posit the shari`a and *maslaha* as two distinct sources of norms (see *al-Manar* 7 [1904]: 462), although he would have agreed with Qaradawi that a *maslaha* that contradicts the shari`a is not really *maslaha* after all (Qaradawi, *al-Ijtihad al-mu`asir*, 69–70).

cultural project”¹¹¹ – even when the parties involved, especially the `ulama, have no particular desire to encourage this sort of contestation.

On occasion, Qaradawi seems to be entirely out of sympathy with open-ended debate and contestation. In the aforementioned rejoinder to Egypt’s grand mufti, he complains that issues long settled by consensus constantly get reopened, “forcing us to go in circles, like a donkey in a mill or a bull in a water-wheel.”¹¹² Needless to say, this is a notably less edifying image than the analogy offered by Rashid Rida between the elusive problem of financial interest and that of free will in Islamic theology. To Qaradawi, it is not only that “the file should have been closed” on *riba* – financial interest – because there is a consensus on the matter; it is also that contemporary Muslims have already come up with an alternative to it in the form of Islamic banking. To reopen this debate is to prevent Muslims from turning their energies to other pressing issues. It is also to cast doubt on the viability of the new Islamic institutions they have devised, to keep them subservient to exploitative colonial-era practices, and, not least, to undermine affirmations of a distinctive Islamic identity.¹¹³ Ironically, and for all the bitterness of this polemic, it is precisely the fact that the debate on *riba* had continued that later allowed Qaradawi himself to take a different, more flexible, position on related matters. Indeed, the very stringency of his earlier position may have helped legitimize his later accommodation. For having made clear to all where he “really” stood on the matter, he could modify that view in some of its implications, on the collective authority of the ECFR, to meet pressing local needs. This was only possible, however, if the file, so to speak, had not been definitively closed.

Elsewhere, Qaradawi shows himself considerably more open to the possibility and the promise of ongoing contestation, a stance more characteristic of him than the earlier screed. The title of a book he published in 2001 – *How Should We Deal with the Heritage, with the Difference of Schools, and with Disagreement?* – bespeaks some of his concerns in this regard. As seen in [Chapter 2](#), the “disagreements” to which he likes to refer – sometimes all too blithely – are those of the jurists in their legal opinions, certain kinds of ritual practice, and theological debates deemed not to have any great bearing on matters of fundamental belief. Such disagreement, he writes, is a human necessity, “for some people lean towards severity and others towards ease, some are inclined in their understanding to outer meanings and others to the [underlying] goals.”¹¹⁴ It can also be a blessing, for some legal opinions suit certain times better than do others, and it is a “treasure” whose richness ought to be valued.¹¹⁵ That the shari`a’s record of earlier disagreements can be shown to relate to contemporary thought suggests that disagreements among

¹¹¹ Calhoun, “The Public Good.”

¹¹² Qaradawi, *Fawa'id al-bunuk*, 13.

¹¹³ *Ibid.*, 13, 19–34, 113–14.

¹¹⁴ Qaradawi, *Turath*, 140.

¹¹⁵ *Ibid.*, 141, 144–7.

present-day scholars should be tolerated as well, and that the old idea that every competent jurist can be “right” in his judgment even when jurists disagree on any given issue ought to be taken seriously.¹¹⁶

Qaradawi has also argued that many contemporary Islamists and `ulama have erred precisely in refusing to acknowledge that there can be more than one legitimate way of approaching a problem, that a particular interpretation – for instance, on jihad – is not necessarily synonymous with Islam itself.¹¹⁷ The battle of ideas that he seeks to join in defense of true Islam and Muslim identity has other targets, too. These include the intellectual, cultural, and political challenges emanating from the West as well as from “apostate” Muslim regimes. We will return to some of these views later in this book (see Chapters 5 and 8). Suffice it to say here that, for Qaradawi, “the Muslim public opinion, the general Muslim conscience, as led by the independent `ulama, preachers, and intellectuals,” is ultimately the most important check on threats to Muslim identity,¹¹⁸ and it is this public opinion that he has sought to foster as a counterweight to calls for violence. He makes no bones about its explosive potential: “When all doors are blocked and all means are cut off, it is not long before [this public opinion] becomes a volcano that erupts in the face of the rebellious apostates.”¹¹⁹ Apart from its other ambiguities, this way of putting it suggests, of course, that a Muslim public sphere and its conceptions of the common good are in place simply waiting to be mobilized, rather than being anything like a “social and cultural project,” as Craig Calhoun would have it. Yet the very fact that a contest of ideas is envisaged gestures toward an implicit recognition that the public sphere *is* fashioned through this contestation and, indeed, that it becomes aware of its own power in this way.¹²⁰

Some contemporary `ulama have come somewhat closer than Qaradawi to acknowledging as much. For instance, Abu `Ammar Zahid al-Rashidi, the Deobandi scholar from the Punjab in Pakistan, sees the fostering of open-ended public discussions on particular issues as a key goal of his monthly journal, *al-Shari`a*. Commemorating the seventeenth anniversary of the journal in 2006, Zahid al-Rashidi writes:

We have sought to create an atmosphere of debate on emerging problems in religious circles and to help shape an attitude which enables people not only to present their position but also to listen to and read about the standpoint and the arguments of the

¹¹⁶ Ibid., 148–209 and passim.

¹¹⁷ Qaradawi, *Fiqh al-jihad*, 1: 19.

¹¹⁸ Ibid., 1: 189. Compare Rashid Rida’s view of the “force of the community’s public opinion, which dominates every other force in this age” and which, in Egypt at least, is a *religious* public opinion: *al-Manar* 29 (1928–9): 122.

¹¹⁹ Qaradawi, *Fiqh al-jihad*, 1: 189.

¹²⁰ Ibid., 2: 1186, where Qaradawi suggests that if a Muslim government is unwilling to fulfill its obligation of helping to liberate a Muslim land from the yoke of imperialism, it is obligatory for the religious intellectuals and other members of the intelligentsia to pressure the government in this direction. They would do so by helping to mobilize public opinion. Also cf. *ibid.*, 2: 1189.

other party. For, without doing so, it is not possible to form the correct view or to arrive at the right conclusion on the matter When we begin a debate on a particular issue, our purpose, as far as possible, is to highlight all its aspects. We therefore seek to ensure that, on any issue discussed in *al-Shari`a*, no article or communication that has been received for or against it remains unpublished.¹²¹

In another context, Zahid al-Rashidi makes a distinction between the realm of the fatwa, which is concerned with matters of Islamic law, and the arena of “public needs, law-making in the country, and solutions to social problems.” Such matters of public policy ought to be circumscribed not by the narrowly defined principles governing a fatwa, he says, but rather only by the agreed-upon principles of the Sunni community at large.¹²² Consequently, there should be a more expansive debate on them than can take place on, say, specific Islamic legal norms, and many more people than specialists of Islamic law ought to be part of such debate. Those trained in the giving of Islamic juridical opinions should continue, through their pronouncements, to guard people against waywardness. However, Zahid al-Rashidi says, on matters of social and collective concern, they should “tolerate an open atmosphere, at least for purposes of debate.”¹²³ Although he speaks here of “public needs” and “collective, national necessities” – terms he seems to employ in a much broader sense than the necessities and needs of the Islamic juridical tradition – it is the question of the common good that he clearly has in mind in this discussion. The common good is the site of contestation, and it is constrained only by broadly agreed Islamic norms – what Qaradawi would have called the “constants of the community” – rather than by a mufti’s putatively legalistic and narrow view of what was right or wrong.



IN CONCLUDING THIS CHAPTER, IT SEEMS USEFUL TO TOUCH UPON TWO RIVAL views of the role of religion in modern Western societies as a way of further elucidating conceptions of the common good as debated in `ulama circles. The sociologist José Casanova has argued that the presence of religion in the public sphere “force[s] modern societies to reflect publicly or collectively upon their normative structures.”¹²⁴ “Public religions” bring moral and ethical perspectives to bear on issues of politics and economics, even as they shape societal discourses in ways that reflect their conviction that the common good is more than the sum of individual interests.¹²⁵ A religion’s public roles are acceptable, however, and indeed

¹²¹ Zahid al-Rashidi, *‘Asr-i hadir main ijtehad*, 323–6; quotations at pp. 323–4, 325.

¹²² Abu `Ammar Zahid al-Rashidi, “Arbab-i `ilm wa danish ki `adalat main *al-Shari`a* ka muqaddima,” *al-Shari`a* 20/5-6 (May–June 2009): 2–12, at 5.

¹²³ *Ibid.*, 7–8.

¹²⁴ José Casanova, *Public Religions in the Modern World* (Chicago: University of Chicago Press, 1994), 228.

¹²⁵ *Ibid.*, 228–34.

become valuable, *only* when they unequivocally recognize the functional differentiation of social spheres – that is, when they agree to operate within the framework of secularization. This sense of secularization is the only one (as opposed to secularization as either the decline or the privatization of religion) defensible on both empirical and theoretical grounds, Casanova argues, and this is the sense in which Catholic and Protestant traditions have become public religions since the late twentieth century.¹²⁶

Casanova is highly optimistic about what public religions can, under his terms, contribute to modern societies and to discussions of the common good. In striking contrast, the influential moral philosopher Alasdair MacIntyre is altogether pessimistic of any such prospects.¹²⁷ MacIntyre argues that contemporary liberal societies tend systematically to exclude any serious discussion of the foundations on which those societies themselves rest, that the modern “compartmentalization” of society into particular spheres means in effect that professional politicians and big business interests are the only ones that make all the decisions that matter, and that, for this and other reasons, any shared deliberation on the common good has become impossible in such societies. Where Casanova sees globalization as creating new prospects for public religions to contribute to discussions of the common good beyond national borders¹²⁸ and suggests, indeed, that “under modern conditions of globalization the ‘common good’ can increasingly be defined only in global, universal, human terms,”¹²⁹ MacIntyre thinks that the sheer scale on which modern societies operate makes any meaningful discourse on the common good an illusion. Whereas the functional differentiation of modern societies is, for Casanova, the precondition for an acceptable public role of religion, MacIntyre considers precisely this differentiation – or compartmentalization, as he calls it – as foreclosing opportunities for shared participation in “asking those questions that most need to be asked.”¹³⁰ MacIntyre’s proposal is consequently to foster small, local communities that have a shared commitment to their traditions; and it is in such communities that he sees the best prospects of collectively devising understandings of, and of realizing, the common good according to values and criteria recommended by the tradition in question. He recognizes that “there can only be continuing conflict” between such communities, on the one hand, and the modern state and the market, on the other, though he does not say how that conflict is to be mediated or resolved.¹³¹ Nor does he acknowledge, as Jonathan Lear has observed, that if local communities might “share a sense of the common

¹²⁶ *Ibid.*, 11–39.

¹²⁷ Alasdair MacIntyre, “Politics, Philosophy and the Common Good,” in Kelvin Knight, ed., *The MacIntyre Reader* (Notre Dame: University of Notre Dame Press, 1998), 235–52.

¹²⁸ Casanova, *Public Religions*, 225.

¹²⁹ *Ibid.*, 229.

¹³⁰ MacIntyre, “Politics, Philosophy,” 243.

¹³¹ *Ibid.*, 252.

good, [they] are also often repositories for unexamined prejudice, scapegoating, bullying and *ressentiment*.”¹³²

It is tempting to see the `ulama's conceptions of the common good along the lines sketched by MacIntyre. As briefly observed earlier, his idea of tradition as an ongoing engagement with interlocutors and critics, internal and external, over the practices that constitute that tradition can lend itself well to understanding the world of the `ulama.¹³³ Even as they have had markedly different positions on the common good, the `ulama generally agree that it is anchored in some fashion in the shari`a, a tradition if ever there was one. In broad terms, MacIntyre would surely see this as congruent with his view of the relationship between tradition and the common good. Qaradawi's notion of the best sort of disagreements being those that arise among people invested in a shared worldview again puts us in mind of MacIntyre's contention that, if there is to be any meaningful discourse on the common good, particular communities must have a common commitment to a tradition and its attendant practices. Some of Qaradawi's ambiguities also parallel MacIntyre's. The latter claims that the sort of community he envisions does not exclude “individuals and groups who hold and are recognized to hold radically dissenting views on fundamental issues.”¹³⁴ But it is hard to see how radical dissenters can be so accommodated when the justification for the formation of local communities is precisely that they are “informed by a large measure of agreement not only on [their] common good, but on human goods in general.”¹³⁵ Qaradawi is equally uncertain as to where the balance is to be sought between a celebration of diversity and its potential menace to the community's well-being.

If some of MacIntyre's ideas approach those of the `ulama, Casanova's conditions seem to distance his public religions from what many `ulama would like to see as Islam's public roles. This may not necessarily be so, however. Even though many among the `ulama would dispute the theoretical legitimacy of the sort of differentiation of social spheres that Casanova requires, they have long accepted some such differentiation in practice.¹³⁶ Soon after the partition of the Indian subcontinent, postcolonial India's premier Deobandi religiopolitical organization, the Jam`iyat al-`Ulama-i Hind, came to accept it in theory as well, formally limiting its activities to “religious, cultural, and educational rights and obligations.”¹³⁷ Further, the `ulama bring to public discourse precisely the sort of things – calls for attending to the moral and religious dimensions of public policy, positing the common good as more than the sum of individual interests, multifaceted

¹³² Jonathan Lear, “Can the Virtuous Person Exist in the Modern World?” *London Review of Books*, November 2, 2006: 24–5, at p. 25.

¹³³ See Introduction and Zaman, *The Ulama*, 3–11.

¹³⁴ MacIntyre, “Politics, Philosophy,” 251.

¹³⁵ *Ibid.*

¹³⁶ Zaman, *The Ulama*, 60–86.

¹³⁷ Kamal, ed., *Jam`iyat `Ulama-yi Hind*, 35. This resolution was moved in the fifteenth general session of the Jam`iyat, held in Mumbai in April 1948.

contestation on the common good – that Casanova commends modern religions for representing in the public sphere.

We need not try to decide whether Casanova's liberalism-friendly approach to public religions and their engagement with the common good fits the `ulama's discourses better than does MacIntyre's distinctly unfriendly view of liberalism. Different segments of the `ulama – and, frustratingly for the observer, different facets of the very same scholar's discourses – would require rather varied judgments in this regard. But whatever their precise content and connotations and whatever their particular claims to authority, the `ulama's discourses must contend with rival positions within and outside their ranks. Unlike, say, the idea of *ijtihad*, contestation continues to be more often lamented than celebrated in the circles of the modern `ulama. And outside observers have frequently ridiculed their disputatious culture. Yet contestation is not merely a relic of an anachronistic scholasticism; still less is it an expression of the failure to forge a consensus and to move on. It is a crucial mechanism through which conceptions of the common good are both evaluated and articulated even as the contours of the public sphere itself continue to be reshaped in the process.

PART TWO





Bridging Traditions: Madrasas and their Internal Critics

OF THE MANY DEBATES ON ISSUES RELATING TO “ISLAM AND modernity,” questions of educational reform are among the thorniest. What sort of education should Muslims receive to meet the challenges of changing times and needs? Can “useful education” – usually understood to comprise the modern, secular, Western sciences – be combined with the traditional Islamic sciences and, if so, how and in what measure? How should Islam itself be reinterpreted to facilitate Muslim adaptation to modern institutions and practices? Such questions were repeatedly asked by Muslim modernists of the nineteenth and early twentieth centuries as a prelude to urging their coreligionists, as `Abdullah Yusuf `Ali (d. 1953) – a noted intellectual of colonial India best known for his English translation of the Qur’an – put it, “to make modern knowledge a living force among Muslims, as it was in their palmy days.”¹ Similar concerns have continued to engage the modernizing governing elite of postcolonial Muslim societies as well. They have also figured in various ways in much Western commentary on madrasas and other institutions of traditional Islamic learning, frequently viewed as sites of illiberal indoctrination.

Prominent among those at the receiving end of such questions are, of course, the `ulama. In response, many among them have argued that the sort of virtues Muslims need to cultivate come from the Islamic religious tradition itself and not from the West; that only a return to the fundamentals of the faith would restore God’s favor to them and empower them in adverse circumstances; and that efforts toward “mixing” the Islamic sciences with modern, Western forms of learning are aimed ultimately at undermining the `ulama’s ability to impart authoritative Islamic learning and thus represent a thinly disguised attack on Islam itself. Assertions of this sort are easily caricatured, lending themselves to reinforcing the deep misgivings many observers have had about what the madrasa and its constructions of Islam might mean for the world around it.

Yet the `ulama of modern times have scarcely been of one mind on whether or how to defend their institutions and to what degree to open them up to nontraditional forms of learning. Many among them have seen efforts toward bringing

¹ A. Yusuf Ali, “Muslim Culture and Religious Thought,” in L. S. S. O’Malley, ed., *Modern India and the West: A Study of the Interaction of their Civilizations* (London: Oxford University Press), 399.

the Islamic and the modern, secular sciences closer together not as undermining Islam but rather as a necessary condition for its very survival in conditions of modernity. Against their more conservative critics, they have argued that Islam has never countenanced any sharp division between religious and secular learning, that the two streams ought to continually replenish each other in enabling Muslims to lead lives that are as true to their faith as they are attentive to modern needs.² Neither “friends” of the madrasa in any obvious sense nor its “foes,” such traditionally educated scholars reveal a complexity in their discourses – *even when* they are framed in blandly dichotomous terms – that is seldom recognized in public commentary on such institutions. My purpose here is not, however, to simply document the fact that many of those who derive at least part of their authority from their traditionalist intellectual formation are among the severest critics of the sort of institutions associated with that formation. Nor is it to try to differentiate “good” scholars, who have sought to build bridges between Islamic and modern, secular learning, from the “bad” ones, that is, those railing against such efforts.³ It is rather to examine some of the ambiguities that inhere in the discourses even of the bridge-builders among the traditionally educated scholars. What accounts for the persistence of the discourse on bringing rival traditions of learning closer together? More specifically, does this longevity owe itself exclusively to the recalibration of the conservative `ulama? And what do this discourse and its ambiguities reveal about contested conceptions of Islam, politics, religious education, and their place in a rapidly changing world?

EDUCATION, POLITICS, AND A NEW ELITE

In March 1905, just months before his death, Muhammad `Abduh resigned from a committee that had been constituted a decade earlier to reform the administration and the teaching practices at the millennium-old Azhar. The immediate cause of his resignation was a blistering speech by the Khedive `Abbas II Hilmi, the ruler of Egypt under formal Ottoman suzerainty, in which he had denounced `Abduh's reforms as undermining the religious mandate of this venerable seat of Islamic learning. There was much opposition to `Abduh in the ranks of conservative

² Elsewhere, I have explored some of the processes through which the `ulama of colonial India came to make sharp distinctions between “religious” and “secular” learning and to conceive of their institutions of learning, the madrasas, as occupying a distinct sphere in society. See Muhammad Qasim Zaman, “Religious Education and the Rhetoric of Reform: The Madrasa in British India and Pakistan,” *Comparative Studies in Society and History* 41 (1999): 294–323; idem, *The Ulama*, 60–86. In this chapter, I am concerned with a different problem, viz., the question of how and why the traditionally educated religious scholars have sought to *undo* or mitigate the effects of such divisions.

³ For an early critique of the rhetoric of the “good” and the “bad” `ulama, see Nadwi, *Shadharat*, 2: 237–8. This work is a collection of Nadwi's editorials in his journal *Ma`arif*. The editorial referred to here is dated April 1929.

Azhar-scholars, and this, too, contributed a great deal to his departure.⁴ Other observers in and outside Egypt received the news of his resignation with much dismay, however, seeing it as a major blow in their ongoing battle against representatives of an anachronistic tradition. One of the harshest responses to this turn of events came from Muhsin al-Mulk of India. Published in the pages of Rashid Rida's journal, it generated an illuminating, if somewhat unexpected, exchange between Muhsin al-Mulk and the editor of *al-Manar*.⁵

Muhsin al-Mulk (d. 1907), whose actual name was Mahdi `Ali Khan, was a supporter and long-standing associate of the pioneering modernist Sayyid Ahmad Khan.⁶ He shared the latter's views on the sort of education Muslims ought to be receiving in the radically changed conditions of his day, and he served as the honorary secretary of the Muhammadan Anglo-Oriental College in Aligarh following Sayyid Ahmad's death in 1898. It was his conviction that `Abduh and Sayyid Ahmad were very much like each other in their reformist aspirations⁷ that had made for a deeply felt reaction to the news of `Abduh's resignation.

The Khedive, Muhsin al-Mulk wrote, knew the sorry state of al-Azhar and its students very well and therefore had no excuse for opposing `Abduh's reforms. Those graduating from al-Azhar lived on public charity like beggars, Muhsin al-Mulk said, and they were ignorant and bigoted.⁸ He continued:

The Azhar has no share in a religious education that might be deemed pure, authentic, and useful. There is no trace of studies there that benefit the people by way of enhancing their moral excellence or their worldly welfare. And yet, the Khedive has decreed that the Azhar should continue in its traditional ways (*al-nahj al-qadim*), such as those it follows at present. . . . If an institution like the Azhar . . . were reformed, modern

⁴ On `Abduh's changing relationship with the Khedive `Abbas Hilmi II, his membership of the Azhar Administrative Council, the opposition of the Azhar `ulama to him, and his eventual resignation, see Gesink, *Islamic Reform and Conservatism*, 129–41, 165–211; Sedgwick, *Muhammad `Abduh*, 74–81, 107–13.

⁵ Rida, *Ta'rikh al-ustadh al-imam*, 1: 517–40. These materials consist of (1) a letter from Muhsin al-Mulk to *al-Manar* (ibid., 1: 517–18); (2) Muhsin al-Mulk's article on the Khedive's speech in an Urdu newspaper called *al-Riyad*, together with the newspaper's commentary on it (ibid., 1: 520–6); (3) Rida's response to Muhsin al-Mulk (ibid., 1: 527–9); (4) Muhsin al-Mulk's rejoinder to Rida (ibid., 1: 530–40); and (5) Rida's concluding note (ibid., 1: 540). Items # 1, 3, and 4 were first published in *al-Manar* 8 (1905–6): 230–7; ibid., 9 (1906–7): 681–90. My references here are to these materials as reproduced in Rida, *Ta'rikh*.

⁶ He had received the title Muhsin al-Mulk from the ruler of the princely state of Hyderabad, in whose government he had served for many years. On the life and career of Muhsin al-Mulk, see Muhammad Amin Zubayri, *Hayat-i Muhsin* (Aligarh: Muslim University Press, 1934); Ahmad, *Islamic Modernism*, 64–72.

⁷ Rida, *Ta'rikh*, 1: 518.

⁸ For his damning portrait of al-Azhar, Muhsin al-Mulk – who seems never to have visited that institution in person – may have relied not just on what Egyptian journals like *al-Manar* had told him but also on the travelogue of Muhammad Shibli Nu'mani, who had taught at Aligarh for many years. Shibli had traveled to Constantinople, Egypt, and Syria in 1892 and had been deeply distressed by the state of Islamic learning in these lands. See Muhammad Shibli Nu'mani, *Safar-nama-i Rum wa Misr wa Sham* (Lucknow: Anwar al-matabi', n.d.); for his account of al-Azhar, see ibid., 144–7.

sciences were imparted in it in the style of European colleges, students were introduced to religious studies together with the [modern] rational sciences, and a new system were put in place to train these pupils – would a hundred students not graduate from it every year who are capable of defending Islam and civilization? The hearts and minds of these students would be illuminated with true knowledge, whereby they would erase any attribution of ignorance to Muslims, any blot that they lacked the ability for revival and progress.⁹

These were stirring words. They were also ironic because Muhsin al-Mulk's own institution, the Aligarh College, had been notably unsuccessful in realizing the vision he was articulating here. Sayyid Ahmad was not only an educational entrepreneur but also a theologian, and he had initially sought to found an institution that would both equip Muslims with modern, Western forms of knowledge *and* impart a new understanding of Islam itself. The former was always a far more important goal for Aligarh than the latter, however, and the extremely low opinion the `ulama had of Sayyid Ahmad's modernist views meant that Aligarh's early leaders found it politic to leave aside its aspirations to become the beacon of a new understanding of Islam.¹⁰ Aligarh would have to content itself with representing one side of the dichotomy of Western versus Islamic education. The other side of this dichotomy came to be typified by the Dar al-`Ulum at Deoband and allied madrasas. It is true that Muhsin al-Mulk did make some efforts to improve Aligarh's relations with the `ulama, and he continued, after Sayyid Ahmad's death, to explore ways of integrating religious education into the educational curriculum of modern institutions of learning.¹¹ He was not particularly successful in these endeavors, however, and, as his exchanges with Rida make clear, his view of the `ulama was not notably more cheerful than Sayyid Ahmad Khan's.

Muhsin al-Mulk had clearly thought that Rida would concur with his denunciation of `Abduh's resignation and of the Khedive's speech that had precipitated it. After all, as seen in the previous chapters, Rida was a lifelong critic of many Azhar `ulama. And some years prior to his exchange with Muhsin al-Mulk, Rida had written a series of imaginary dialogues between a hide-bound traditionalist scholar (*muqallid*) and a forward-looking reformer (*muslih*), which could only have been read as a devastating critique of the Azhar establishment.¹² Remarkably,

⁹ Rida, *Ta'rikh*, 1: 520, 523. This passage forms part not of Muhsin al-Mulk's letters to Rida but rather of the Urdu article the former had published in the Indian newspaper *al-Riyad* (see n. 5). For the full Urdu text of this article, as reprinted in the *Aligarh Institute Gazette*, see "Khedive ke faysale par ta'ajjub awr afsos," *Aligarh Institute Gazette*, April 22, 1905: 6–7; *ibid.*, May 3, 1905: 4–8.

¹⁰ See David Lelyveld, "Disenchantment at Aligarh: Islam and the Realm of the Secular in Late Nineteenth Century India," *Die Welt des Islams* 22 (1982): 85–102. On Sayyid Ahmad's theological views, see Christian W. Troll, *Sayyid Ahmad Khan: A Reinterpretation of Muslim Theology* (Delhi: Vikas 1978).

¹¹ Ahmad, *Islamic Modernism*, 65f.

¹² Rida, *Muhawarat*. Published as a book in 1906, the fictional dialogues collected here were first published in *al-Manar* in 1901.

however, Rida proceeded to *defend* the `ulama of the Azhar in response to Muhsin al-Mulk, although in terms that were far from complimentary.

Rida argued that Muhsin al-Mulk was mistaken in assuming that the Azhar `ulama were uniformly opposed to modern education or that they saw such learning as being in conflict with Islam. Many Azhar `ulama were sending their own children to modern educational institutions, which they would have scarcely done if they were convinced that these institutions necessarily undermined Islam. The `ulama recognized that Islam was concerned with people's welfare both in this world and in the hereafter, Rida said, and this pointed to their recognition that the modern sciences promoting worldly welfare were not inconsistent with Islam. But if Muhsin al-Mulk had given too little credit to the `ulama as regards their view of modern forms of knowledge, he had, in Rida's view, given too much credit to the sincerity and strength of their convictions. Like many other observers, Muhsin al-Mulk had assumed that the `ulama's opposition to the Azhar reforms was a principled stance, one that they would endorse at all costs. However, the Azhar-`ulama's opposition to `Abduh's reforms was entirely motivated by political calculation, Rida said; they supported the reforms as long as the Khedive was on good terms with `Abduh, and they had changed course as soon as `Abduh lost the Khedive's favor.¹³

This argument did nothing to convince Muhsin al-Mulk. Instead, he wrote a long response in which he lamented the sorry state of Muslims in intellectual, economic, and political realms and pointed to the `ulama as "the real cause" (*al-asl al-asil*) of this decline.¹⁴ Rida seems not to have responded to this screed. However, as reproduced in his biography of `Abduh, he appended a short note to this exchange in which he observed that Muhsin al-Mulk had misunderstood his defense of the Azhar `ulama. His point, Rida said, was that it was not the Azhar `ulama who had constrained the Khedive to oppose `Abduh's reformist initiatives but the other way, viz., that they had simply toed the Khedive's line. But, he said in obvious allusion to political pressures, he had not been able to make this very clear in his published response to Muhsin al-Mulk.¹⁵

The need to exercise caution does indeed go some way in accounting for Rida's odd exchange with Muhsin al-Mulk. In the speech that had triggered this chain of events, the Khedive was obviously referring to the expatriate Rida when he had warned those

trying to stir up disturbances through insinuation, doubt, and deception, by way of speeches or of newspapers, to desist from doing so. As for the foreigner among them, it is better that he return to his own land and disseminate there whatever he wants of statements and opinions opposed to religion and to the welfare (*maslaha*) of the Azhar and of those associated with it.¹⁶

¹³ Rida, *Ta'rikh*, 1: 527–9.

¹⁴ *Ibid.*, 1: 530–40, at 538.

¹⁵ *Ibid.*, 1: 540.

¹⁶ *Ibid.*, 1: 519.

But other factors may also have shaped Rida's response. As he had noted, not all Azhar scholars were opposed to `Abduh and his reforms;¹⁷ and the following decades would, in fact, see many more reforms carried out at the hands of those who had been influenced by `Abduh's ideas. In defending the Azhar against Muhsin al-Mulk, Rida may have sought to avoid burning all bridges with the Azhar `ulama. At the same time, Muhsin al-Mulk's diatribe against the Azhar had created a useful opportunity for Rida to publicize the failings of the traditionalist `ulama without having to take full personal responsibility for such criticism, at least on this occasion.

This exchange with Muhsin al-Mulk may also be seen as yet another instance of Rida's occasional criticism of some of the very people who endorsed his positions. There was nothing Muhsin al-Mulk said that was not in accord with Rida's own view of the Azhar `ulama and, indeed, of `ulama elsewhere. Yet, for all the right sentiments about the absence of any divide between worldly and religious sciences in Islam, Muhsin al-Mulk was associated with a leading institution of Western education. Rida may not have known a great deal about Aligarh at this time – he would visit it some years later, in 1912 – but he was surely aware of its educational mission, its political loyalism, and its close dependence on British colonial patronage. To endorse Muhsin al-Mulk's attack on the `ulama would be to strengthen the westernizing Muslims in their misguided ways, and this could undermine Islam not just as the traditionalist `ulama understood it but as it ought “properly” to be understood.

Notwithstanding occasional efforts to ingratiate himself with the British, Rida had no illusions about the deleterious effects of colonial rule. By the same token, he was almost as harsh in his assessment of westernized Muslims as he was of the traditionalist `ulama, and this attitude would harden over the years. Some of his forays into education were a response to this dim assessment. In 1912, as will be recalled, he had founded the Madrasat al-da'wa wa'l-irshad in Cairo to train a corps of religious guides capable of stemming what he saw as the threat of Christian missionaries in Muslim societies and committed to rebuilding the community's religious foundations. “Among the things that afflict Islam [today] is the absence,” he had said in explaining his vision for this madrasa,

of a group among its adherents which is devoted to general religious guidance for the Muslims as had existed among our pious forbears (*salafuna al-salih*) and as it exists in other communities, such as the Christian monks and priests. Consequently, there is anarchy among Muslims in matters of their religion, in their upbringing and their morals. . . . Some among them remain ignorant, never laying their eyes upon a learned guide and educator who might attend to them with instruction and advice; others go to Christian missionary schools or government schools to acquire their knowledge,

¹⁷ Ibid., 1: 528. For a similar view, see Charles C. Adams, *Islam and Modernism in Egypt* (London: Oxford University Press, 1933), 77f.

manners, and morals. The Muslim community has seen no reform emerge from such students. Instead, it has seen numerous ills in the students of such schools, from their divisiveness to their bad manners to their calls to [particularistic] . . . ties that accord neither with their religion nor with their history. As for the religious schools, they, for all their small numbers, have turned into *worldly* schools, in which knowledge is sought only for employment in the judiciary, as muftis, or as teachers.¹⁸

He struck a similar note in addressing his audience at Aligarh in 1912. In India as in other Muslim lands exposed to Western learning, people had come to be divided into three groups, he said:

One category is enticed by the new and loathes everything old. The second is frozen in the old [ways] and flees from everything new. The third represents [the path of] moderation between the two [extremes]: it calls for the preservation of what is useful among the old things and the gradual abandoning of the harmful. It seeks to add-on whatever is necessary from among new things provided that the fundamentals, the distinctive characteristics, of the community are safeguarded rather than dissolved in the "other."¹⁹

Imitators of "foreign traditions and innovations" (*al-taqalid wa'l-bida` al-ghariba*)²⁰ needed to realize, Rida said in an argument tailored to his Aligarh audience, that Western nations had continued to remain committed to their norms. The example closest at hand was that of Englishmen, who tended to remain devoted to their ways and seldom gave them up even when better choices were available.²¹

In some of his other pronouncements, the balance was not exactly what Rida seemed to be visualizing at Aligarh, however. As he was reported to have put it to Sir Gerard Lowther, the British ambassador to Constantinople, in October 1910, "his intention was to found a college whose teaching would be directed to diminish and gradually eliminate the fanatical side of Islam and, while preserving a religious tone, to purify the Mahomedan faith while grafting on it Western culture and modern methods."²² While allowing for the possibility that something was lost in translation, Rida may have been speaking rather differently to different audiences. It may also be that the question of precisely where the balance lay between Islam and modern Western learning was less clear even to him than he may have wished to acknowledge.

Although his madrasa proved short-lived (closing its doors in 1915, in the face of opposition from many `ulama, accusations that he was somehow trying, through the preachers trained at this madrasa, to subvert the Ottoman caliphate, and a

¹⁸ Rida, "Khutbat iftitah al-ijtima` al-sanawi al-`amm li-jama`at al-da`wa wa'l-irshad," *al-Manar* 15 (1912): 921–9, at 924.

¹⁹ Rida, "al-Tarbiya . . ." *al-Manar* 15 (1912): 585–6.

²⁰ *Ibid.*, 585.

²¹ *Ibid.*, 586.

²² Gerard Lowther to Sir Edward Grey, Constantinople, October 9, 1910, FO 407/175: 37536/717 (Foreign Office Files for India, Pakistan, and Afghanistan).

chronic lack of funds),²³ Rida would continue to devote his considerable energy toward picturing the sort of religious and political elite that best suited the needs of the contemporary Muslim world. He offered some of his most sustained reflections on this subject in an aforementioned treatise, *The Caliphate*, that he published in 1922–3. As Rida put it in this book, “Islamic reform requires that those who loosen and bind [the community’s public affairs] be people self-sufficient in their knowledge of the shari‘a, [but also] that they be knowledgeable of the community’s political, social, legal, administrative, and financial interests even as they are people of probity, of considered judgment, and of sagacity.”²⁴ Such people would put to rest any false notion, common among the “westernizing apostates” (*malahidat al-mutafarnijin*), that religion and worldly affairs were separate things.²⁵

Rida was calling here for nothing less than a new kind of public and religious intellectual, one with credible claims to religious authority yet independent of the traditional religious scholars. This vision anticipates the college- and university-educated Islamists of a later generation with the difference, however, that Rida’s intellectuals would not be mere autodidacts in religious matters. Rather, the elite among them were to be educated at an institution specifically designed for them, acquiring there all that they needed to engage in *ijtihad*, issue fatwas, and provide religious and political leadership to the community at large.²⁶ The caliph himself – the *mujtahid par excellence* – would come from within the ranks of such intellectuals. Later scholars have remained uncertain about whether Rida intended his caliph to exercise any meaningful political functions or if he was meant to serve largely as a symbol of the global Muslim community; Rida himself was less than clear on this score.²⁷ In any case, the sort of intellectuals he describes were to play a key role in reorienting Islam and Muslim societies toward a politically independent, religiously unified, and intellectually vibrant path. They were also to represent a bridging of religious and worldly knowledge. This vision has not ceased to resonate in many circles. It has also remained elusive.

BREAKING AND ERECTING BARRIERS

Like Rida, Qaradawi has long argued for religious intellectuals who combine Islamic and modern forms of knowledge, speak “the language of the age,” and

²³ On the problems this madrasa had faced from its inception, see Rida, “Khutbat iftitah,” 921–9.

²⁴ Rida, *al-Khilafa*, 58.

²⁵ Cf. *ibid.*, 62. Also see *al-Manar* 29 (1928–9): 117, for Rida’s lament that Muslims, lacking an Islamic government, were also without *ahl al-hall wa’l-‘aqd* who would guard the community’s “constitutive elements.” The result was that “people’s affairs are in disarray, there being no firm foundations where they could take refuge when severe, howling, winds blew against them.” He was speaking here of the deleterious effects on people’s attitudes of the indiscriminate contents of the popular press, but his point about the *ahl al-hall* as a bulwark against threats to Islam was, of course, a much broader one.

²⁶ Cf. *al-Khilafa*, 79–80.

²⁷ For a nuanced study of Rida’s evolving views on the caliphate, see Haddad, “Arab Religious Nationalism.”

adhere to the views of the “centrist school,” in self-conscious contrast to those given to extremes of different kinds. Qaradawi writes with much pride of his directorship of the College of Higher Religious Studies in Doha, Qatar, from its inception in the early 1960s to the mid-1970s, where he had tried to foster an educational system that “combined the old and the new.” As he had put it in 1963 to Muhammad ibn Ibrahim Al al-Shaykh, the Grand Mufti of Saudi Arabia and the first rector of the then newly founded Islamic University of Medina, “the student should not live dissociated from his age. If he is destined to preach or to issue fatwas, he should be knowledgeable about the world of those to whom he preaches and he should be able to speak to them in their language. . . . As Ibn al-Qayyim [d. 1350] has said, ‘a true jurist is one who joins the “obligatory” to the “actual” . . . We cannot but live in our own age . . .’”²⁸ For the next twelve years (1977–89), Qaradawi was the dean of the shari‘a faculty of the newly founded Qatar University. The founding documents of the University had stressed its Islamic character, Qaradawi says, as well as the aspiration that “it would combine traditional authenticity and the contemporary.” The shari‘a faculty itself sought, under Qaradawi’s leadership, to “produce a Muslim legal scholar who, when asked, gave fatwas on the basis of [sound] knowledge, preached with discernment, and kept one eye on the sacred law and tradition (*al-shar‘ wa’l-turath*) and the other on the present age and the current reality . . .”²⁹

This vision would continue to guide him. In April 2007, Qaradawi announced the establishment of the College of Islamic Studies in Qatar’s Education City, which, as its name suggests, houses a number of educational institutions. The College of Islamic Studies was to offer degrees in “public policy in Islam” as well as in contemporary Islamic law (*fiqh*). The objective of the latter program, as Qaradawi explained it on that occasion, was to “prepare graduates who are intellectually, morally, and technically capable of relating our Islamic legacy with its texts, methodologies and principles to modern problems and challenges and their solutions.”³⁰

Qaradawi celebrates *Rida* for the “golden rule” that there ought to be cooperation on shared concerns and forbearance on matters of disagreement,³¹ but he exemplifies it much more than *Rida* ever did. Whereas *Rida* had spent a great deal of his energy dueling with al-Azhar and trying to sidestep or subvert that institution, Qaradawi has always insisted on the continuing relevance and authority of the ‘ulama. This has had much to do, of course, with the fact that Qaradawi, unlike

²⁸ Qaradawi, *Ibn al-qarya*, 2: 441.

²⁹ *Ibid.*, 3: 390–1.

³⁰ “QF [Qatar Foundation] Sets Up Islamic College,” *Gulf Times*, April 15, 2007. Now known as the Qatar Faculty of Islamic Studies, this institution houses a number of research centers, including Al-Qaradawi Center for Research in Moderate Thought; Islamic Economics and Finance; and Governance and Public Policy. See <http://www.qfis.edu.qa/output/page136.asp> (accessed January 9, 2012).

³¹ See Chapter 2, n. 106.

Rida, is himself a product of al-Azhar. And it reflects his pragmatic recognition that “traditional religious establishments” carry much influence in many Muslim societies and that the Islamists – to whom this advice is addressed – would not be well served by coming into conflict with them.³² To note another contrast, Rida had led a rather impoverished life,³³ whereas Qaradawi has enjoyed the patronage of the ruling family of Qatar for many decades. Rida had once lamented that if only the rich Muslims would establish schools in which the religious and the worldly sciences were taught together, Muslims would no longer be vulnerable to Christian missionary schools and Muslim reformers would be able to promote both the religious and the political interests of Islam.³⁴ At least in this respect, Qaradawi may well be considered as the sort of Muslim reformer Rida had visualized.

The most notable attempt toward the integration of various kinds of Muslim intellectuals into a shared framework is provided by the International Union of Muslim Scholars. The objectives of this organization have been briefly discussed earlier (see Chapters 2 and 3). What concerns us here is the organization’s membership. As its constitution stipulates, it is open “to scholars graduating from faculties of the shari`a and departments of Islamic Studies at various universities in the Muslim world, as well as those concerned, in palpable and [intellectually] productive ways, with the shari`a sciences and with Islamic culture.”³⁵ In signaling a clear willingness to count many more people *as`ulama* than those trained at formal institutions of traditional Islamic learning, this is a striking statement. It reflects a recognition that the boundaries between the `ulama, many Islamists, and other religious intellectuals have become increasingly blurred. But it may also echo some vicissitudes of Qaradawi’s own career, which merit a brief digression here.

In 1954, Qaradawi had received his *shahada`alimiyya*, the degree “with which the student came to be counted among the `ulama of al-Azhar.”³⁶ He later enrolled in the university’s doctoral program,³⁷ but it would not be until 1973 that he was able to receive his PhD. Living and working in Qatar since 1961, his association with the Muslim Brotherhood had made it impossible for him to return to Egypt while President Nasser was in power. As the years went by, Qaradawi grew increasingly despondent about the prospects of ever receiving his doctoral degree from the Azhar, and in 1969, he decided to explore the possibility of obtaining a PhD from the

³² Yusuf al-Qaradawi, *Awlawiyyat al-haraka al-Islamiyya fi'l-marhala al-qadima* (Cairo: Maktabat Wahba, 1991), 184.

³³ See Arslan, *al-Sayyid Rashid Rida*, 632–3, n. 1; al-Sharbasi, *Rashid Rida*, 166–9.

³⁴ Rida, *Tafsir*, 10: 476.

³⁵ <http://www.iumonline.net/articls/info/article02.shtml>, “al-Nizam al-asasi,” article 4.

³⁶ Qaradawi, *Ibn al-qarya*, 1: 486; cf. Skovgaard-Petersen, “Yusuf al-Qaradawi, 33.

³⁷ Between the completion of his `alimiyya and enrolling in the PhD at al-Azhar, Qaradawi also spent some time at the Institute of Higher Arabic Studies, an institution in Cairo run by the Arab League. See Qaradawi, *Ibn al-qarya*, 2: 213–17; Gudrun Krämer, “Drawing Boundaries: Yusuf al-Qaradawi on Apostasy” in Krämer and Schmidtke, eds., *Speaking for Islam*, 187.

Punjab University of Lahore, in Pakistan. He had already written his dissertation, on legal rulings relating to Zakat, and with encouragement from the Pakistani Islamist Sayyid Abu'l-A`la Mawdudi (d. 1979), he went to Lahore to see if he could submit it to the Punjab University's Department of Islamic Studies and be awarded a PhD for it. The university administration was polite but tactfully declined Qaradawi's request.³⁸ It was not long before President Nasser died (1970), which, in turn, began to slowly improve the relations between the state and the Islamists. Qaradawi was eventually able to return to Egypt and to defend his dissertation in 1973.³⁹ He has always flaunted not just his `alimiyya but also his PhD *from al-Azhar*. Yet, he had come close to not receiving it from this venerable seat of Islamic learning. Had the Punjab University granted his request – a westernized institution established by the British in colonial India – Qaradawi's subsequent claims to religious authority would probably have been rather differently articulated. In any case, that possibility may have had some part in making him more attentive than many of his peers to the religious intellectuals and activists who lack the formal credentials of the `ulama.⁴⁰ The 500 or so people listed in 2008 as members on the official website of the International Union of Muslim Scholars do, indeed, come from many different walks of life.

The list included Muhammad Salim al-`Awwa, an Egyptian lawyer with a PhD in comparative law from the University of London who, in 2008, was the general secretary of the `Ulama Union; Rashid al-Ghannushi, a leading Tunisian Islamist then living in exile in London;⁴¹ Salman al-`Awda, a prominent Saudi Salafi who came to prominence for voicing opposition to King Fahd's decision to station Western troops on Saudi soil in the wake of Saddam Hussein's invasion of Kuwait in 1990; Sayyid Salman Nadwi, the dean of the shari'a faculty of the Nadwat al-`Ulama in Lucknow; Zafar al-Islam Khan, editor of the *Milli Gazette*, a Muslim newspaper published from Delhi; `Ali Muhyi al-din Qaradaghi, an Azhar-educated Iraqi Kurd who is a naturalized Qatari citizen and specializes in Islamic economics; Fahmi Huwaydi, a prominent Islamist journalist in Egypt; Muhammad Taqi `Uthmani of

³⁸ Qaradawi, *Ibn al-qarya*, 3: 171–8. Qaradawi reports `Ala al-din Siddiqi – the vice chancellor of the university (who had formerly been the chair of the university's Department of Islamic Studies) – as saying that the university could not find appropriate people to judge Qaradawi's work because the local scholars were more like Qaradawi's students; that the university might consider giving him an honorary D.Litt. rather than a regular PhD; and that, to be considered for the honorary D.Litt., it was better that Qaradawi first have his dissertation published and then send it to the university. See *ibid.*, 3: 175–6.

³⁹ *Ibid.*, 3: 269–71, 74–7.

⁴⁰ It should be noted, however, that the Azhar `ulama have been exposed to the idea of combining Western and Islamic learning for much longer than have those of South Asia. For instance, `Abd al-Halim Mahmud (1910–78), the Shaykh al-Azhar in the 1970s, had received his PhD at the Sorbonne, although he had been educated at the Azhar prior to that. (See `Abd al-Halim Mahmud, *al-Hamd lillah hadhihi hayati*, vol. 1 [Cairo: Dar al-ma`arif, n.d.], 89–126.) The same is true of the current Shaykh al-Azhar, Ahmad al-Tayyib.

⁴¹ Ghannushi returned to Tunisia in 2011 following the fall of the regime of Zayn al-`Abidin Bin `Ali.

the Dar al-`Ulum of Karachi; Muhammad Husayn Fadl Allah, until his death in 2010 the most prominent Shi`i religious authority (*marja` al-taqlid*) in Lebanon; Wahba al-Zuhayli, a noted Syrian scholar; Mustafa Cerić, the grand mufti of Bosnia; Muhammad `Imara, a prolific Egyptian Islamist intellectual whose many works include an edition of the collected works of Muhammad `Abduh; Jalal al-din Haqqani, a leader of the Afghan mujahidin during and after the Afghan resistance against Soviet occupation who subsequently became part of the Taliban movement and later still emerged as a key figure in the “neo-Taliban” insurgency in the tribal areas of Pakistan’s Khyber Pakhtunkhwa (the former North-West Frontier Province);⁴² and Muhammad `Ali Taskhiri, an Iranian Shi`i scholar who has long been associated with efforts to bridge some of the distance between the Sunnis and the Shi`a.⁴³

As this small sample should suggest, there are significant intellectual, political, and doctrinal differences among the people associated with the `Ulama Union. There are journalists, lawyers, and Islamist leaders here, scholars trained in madrasas of various sort as well as in Western or westernized educational institutions, Shi`is and Sunnis, and even a notorious Afghan warlord. Such differences suggest that it would not be easy to foster a consensus on substantive issues beyond vague and general pronouncements. Yet the very differences among members of the `Ulama Union make the rhetorically powerful point that leading scholars and activists from across the Muslim world can come together on a shared platform, that their intellectual and cultural differences can be bridged.

It is instructive to see who is *not* listed among members of the `Ulama Union. This can become a very long list, but suffice it to say here that the dissident Iranian intellectual `Abdolkarim Soroush, one of the severest critics of the Iranian religious establishment and of its authoritarian claims, is not among its members. Nor was Nasr Hamid Abu Zayd (d. 2010), an Egyptian scholar who had to flee his native

⁴² The term *neo-Taliban* refers to groups in both Afghanistan and Pakistan that see themselves as continuing the legacy of the Afghan Taliban in the years following the demise of the Taliban regime in Afghanistan (1996–2001). For this characterization, see, for instance, Antonio Giustozzi, *Koran, Kalashnikov, and Laptop: The Neo-Taliban Insurgency in Afghanistan* (New York: Columbia University Press, 2008). I will often use the terms *Taliban* and *neo-Taliban* interchangeably when referring to these groups in the post-9/11 era. On Haqqani and his militant network, see Carlotta Gall, “Report Says Pakistan Intelligence Agency Exerts Great Sway on Afghan Taliban,” *The New York Times*, June 14, 2010: A8; Mark Mazzetti, Scott Shane, and Alissa J. Rubin, “A Brutal Afghan Clan Bedevils the US,” *The New York Times*, September 25, 2011: A1, 14.

⁴³ The 2008 membership roster, last accessed at <http://iumsonline.net/articls/info/members.shtml> on April 16, 2008, is no longer available. The list of members given on a document dated March 22, 2011, was broadly similar, although there were some differences. See <http://www.iumsonline.net/ar/default.asp?MenuID=3> (accessed July 11, 2011). Jalal al-din Haqqani, for instance, continued to be listed in the 2011 version (p. 15), but Mulla Muhammad `Umar, the head of the Taliban regime of Afghanistan (1996–2011) who is believed to be in hiding in Pakistan, was new to the 2011 roster (p. 22). Mulla `Umar is omitted from the most recent (undated) iteration (<http://www.iumsonline.net/ar/default.asp?menuID=3&menusubID=21> [accessed April 19, 2012]), though Haqqani continues on it (p. 13).

Egypt in the face of charges of apostasy for his views on how the Qur'an ought to be contextualized in its original historical milieu (and the implications of this for thinking about the universality of particular Qur'anic teachings). The Syrian civil engineer Muhammad Shahrur, who has written extensively on the need to rethink Islamic juridical norms through a radical re-reading of the Qur'an, is also absent. So, too, is Wahid al-din Khan, a prominent Indian scholar who has been a lifelong critic of his fellow `ulama for what he sees as their failure to adapt to the needs of changing times and for their excessively politicized interpretations of Islam. Qaradawi would surely consider such individuals as representing *incommensurable* forms of disagreement, which means, as seen earlier, that whereas some differences of opinion are to be cherished for what they have contributed to the enrichment of Islamic civilization, others contradict the very premises of a distinct Islamic identity and therefore have no recognizable place within the community.

The real divide, as Qaradawi views it, is not between people who are products of different educational systems. Such divides, and the intellectual disagreements or misunderstandings arising from them, can be healed or transcended relatively easily. Indeed, as the membership roster of his `Ulama Union makes plain, varied individuals can all be recognized as `ulama, irrespective of their different intellectual backgrounds. The real divide is, rather, between people committed to the *totality* and nonnegotiability of Islamic norms, on the one hand, and those seen, on the other, as subverting these norms from within the Muslim community and from outside. Qaradawi writes:

Among the interpretations with which the secularists (*al-`almaniyyun*) and the modernists (*al-hadathiyyun*) calumniate [us] is the idea of "political Islam," which, without doubt, is an idea alien to our Islamic society. By [political Islam] they mean an Islam that concerns itself with the internal and external affairs of the Muslim community. [They mean by it] actions aimed at freeing the community from the foreign power that directs [Muslim] affairs, physically and morally, as it pleases. [They also mean by it] actions seeking to cleanse the community of the cultural, social, and legal sediments of Western colonialism so that the community can return once again to submission to God's law in different areas of life. They use this characterization of "political Islam" in order to alienate people from its [aforementioned] content and to frighten them away from those calling to a comprehensive conception of Islam – one that is inclusive of belief and law, worship and social interaction, proselytism and the state.⁴⁴

To look at it another way, the real divide is not between those calling for reform and those opposing it, but rather between different kinds of reform – one well-intentioned because it is anchored in Islam, the other insidious and serving anti-Islamic interests. As the "Islamic Charter" (*al-mithaq al-Islami*) of

⁴⁴ Qaradawi, *al-Din wa'l-siyasa*, 93.

the `Ulama Union puts it, unmistakably echoing Qaradawi on this and other scores:

We believe that genuine reform (*al-islah al-haqiqi*), one that preserves the unity of the community and guides it towards excellence and progress, is internal reform (*al-islah al-dhati* [literally: “self-reform”]), which begins from the constants of the community and its own interests. This signifies the reform of Muslims through Islam, and not the distancing of Islam [from the lives of Muslims], or its distortion, or its “development” in the name of reform. The external calls for reform really only seek to strike at the community’s strengths in order to keep it weak and to maintain [foreign] control over its affairs.⁴⁵

Precisely where the boundaries lie between those who use Islam to reform Muslim affairs and those who appeal to reform as a way of undermining Islam itself remains uncertain in the foundation documents of the `Ulama Union as well as in Qaradawi’s own writings. He seems to be in little doubt, however, that a firm boundary does exist somewhere between the two orientations. This is a divide that his “centrism” seeks not to dilute but rather to affirm and strengthen. Qaradawi’s world, as well as that of the `Ulama Union, is one in which Islam is pitted against a Western “neo-imperialism” (*isti`mar jadid*) bent upon the destruction of distinctive Islamic institutions and of Muslim identity.⁴⁶ And it is among the purposes of this organization to pool Muslim resources, to create awareness of Western onslaughts against Islam, and to think of ways of effectively combating them.⁴⁷

Qaradawi credits the late Harvard political scientist Samuel Huntington (d. 2008) with having reminded “defeated” people – by which he presumably means westernizing Muslims, among others – that civilizations other than the West still exist and that religion plays an important role in many of them.⁴⁸ Yet, for all of Huntington’s talk of several major civilizations in the contemporary world, Qaradawi believes that it is with Islam and its challenge to the West that Huntington was really concerned.⁴⁹ The West, Qaradawi argues, seeks to undermine Islam and Muslim identity, and not only through political and military means. Globalization itself is a thinly veiled effort to spread Western norms throughout the rest of

⁴⁵ International Union of Muslim Scholars, “al-Mithaq al-Islami lil-ittihad al-`alami li-`ulama al-muslimin,” <http://www.iumsonline.net> (accessed October 25, 2007), 65.

⁴⁶ Qaradawi, *al-Muslimun wa'l-`awlama*, 9–86.

⁴⁷ In late 2011, the `Ulama Union went so far as to designate the year 1433 of the Islamic calendar (=2011–12) “the year of Salah al-din al-Ayyubi.” This was in commemoration of Saladin’s 900th birth anniversary, but the symbolism of honoring the Muslim hero of the Crusades in this way leaves little doubt about how Qaradawi and his associates view contemporary Islam in relation to the West. See “Bayan ittihad al-`alami li-`ulama al-muslimin yatanawal al-sha`n al-islami,” (<http://www.Qaradawi.net/component/content/article/5408.html>, accessed January 8, 2012).

⁴⁸ Qaradawi, *al-Muslimun wa'l-`awlama*, 112–14; Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order* (New York: Simon & Schuster, 1996).

⁴⁹ Qaradawi, *al-Muslimun wa'l-`awlama*, 115.

the world. In response to this challenge, Qaradawi seeks to refurbish not just a commitment to Islamic norms among Muslims but also, and specifically, a sense of Muslim civilizational identity.⁵⁰ Globalization, too, can be put to use in this effort, primarily through its means of communication and its information technologies. More ambitiously, Qaradawi seems to envisage an alternate globalization, one that is not dominated by the neo-imperialist West and in which Islam and Muslims can play the leadership role that properly belongs to them. Bridging religious and worldly education – or at least some of the distance between their products – is a crucial means of preparing Muslims for such roles.

DEOBANDI DISCONTENT

From the Arab world, we return again to South Asia to consider some examples of how the traditionally educated scholars have viewed the dichotomous relationship between rival intellectual traditions. Besides many staunch defenders, Deoband and allied madrasas have produced their share of scholars who have been highly critical of the sort of learning imparted at these institutions. In light of the discourses on consensus examined in [Chapter 2](#), it should be no surprise that `Ubayd Allah Sindhi was among the sharpest of these critics, and it makes sense to begin with him.

In a lecture, “How Should We Study the Qur’an?,” probably delivered sometime in or around 1914, Sindhi quotes a passage from the speech Rashid Rida had delivered in 1912 at the Nadwat al-`Ulama in Lucknow. Although the words are Rida’s – whom Sindhi had met at Deoband, but who is not mentioned by name here – the quoted passage leaves no doubt about *Sindhi’s* view of contemporary madrasa education:

Change in people’s character only comes about through upbringing and education. *Change* here means that through which one’s practice is altered. Practices are expressions of learning and morals. When one’s knowledge of right and wrong, of the good and the bad, the beneficial and the harmful is correct and when one’s morals are excellent, all the practices are virtuous and they lead to the progress of people and to their religious and civic perfection. . . . If the education we have been imparting for several centuries could produce men capable of reviving the Islamic community and of taking it out of the lizard-hole in which we find ourselves, signs of such people would have

⁵⁰ As Talal Asad has observed, “[t]he trouble with the clash of civilizations talk is . . . that the very identity of a people as European (or Islamic) depends on the definition of a selective civilizational heritage of which most of the people to whom it is attributed are in fact almost completely ignorant – a heritage with which even individual members of the elite (the civilization’s guardians) are only incompletely familiar” (*On Suicide Bombing*, 10). Although he would not put it this way, something similar applies to Qaradawi as well. At his hands, it is not only the threats to their civilization of which people are to become aware but also the contours of the very civilization that they should be defending.

been visible and we would not have remained in this state of humiliation for all these centuries. It is as if we have been struck by a stroke or by paralysis . . .⁵¹

Besides their numerous other failings, Sindhi frequently lamented his fellow `ulama's inability to interpret the Qur'an in terms that would be readily understood by the nonspecialist and be capable of being put to use in evolving circumstances. "I have never been persuaded," he later remarked,

of [the merits of] a religious education that works well with students of madrasas but doesn't with those of the [modern] colleges. If this is the nature of our religious education, then it can hardly be regarded as instruction in true Islam. For the Qur'an has been revealed for the [benefit of the] entire world: if we cannot explain it to Muslims among the college students in the way in which we can successfully explain it in the madrasas, how then would we ever be able to teach the Qur'an to those who are not even Muslims?⁵²

That the system of education "worked well" for the madrasa's own students, that the `ulama could "successfully explain" the Qur'an to their students should largely be understood as rhetorical concessions intended to underscore a particular failing of the madrasa, viz., its lack of effective outreach. For, as seen in [Chapter 2](#), as well as in the foregoing quotation from Rida, Sindhi was unrelenting in his critique of the `ulama's approach to Islam. But he was also much perturbed by the incommensurability, perceived on both sides of the divide, between the college and the madrasa educated, and he undertook various initiatives toward remedying it.

Sindhi's Jam'iyyat al-Ansar had sought not only to forge a network of the Deoband madrasa's graduates but also, it is worth noting, to make provisions for some English-educated students at Deoband.⁵³ A few were studying at the madrasa around the time of Rashid Rida's visit. One of them, with a bachelor's degree from Aligarh, had made a point of writing to the *Aligarh Institute Gazette* to draw attention to a favorable comment Rida had made in *al-Manar* about Deoband.⁵⁴ But not everyone at Deoband was comfortable with the presence of these English-educated students in their midst; and some disaffection on this score may well have contributed to Sindhi's own expulsion from Deoband.⁵⁵ Following his departure, Sindhi had established what proved to be a short-lived madrasa in Delhi, the Nizarat al-Ma'arif, to teach the Qur'an to graduates of Aligarh and others

⁵¹ Rida, "al-Khutba al-ra'isiyya," 338. Quoted, without reference to the source, in `Ubayd Allah Sindhi, *Qur'an-i pak ka mutala'a kaise karen?* (Lahore: Nashirin-i Paise akhbar, 1959), 12–13. On the date of this lecture by Sindhi, see *ibid.*, 4.

⁵² Sindhi, *Falsafa*, 139.

⁵³ Cf. `Aziz al-Rahman, *Tadhkira-i shaykh al-Hind*, 171–2.

⁵⁴ Anis Ahmad, "Allama Sayyid Rashid Rida awr madrasa-i `aliya-i Deoband," *Aligarh Institute Gazette*, September 18, 1912: 10; cf. Rida, "Ujala," 621–2.

⁵⁵ See "Statement of Matlub-ur-Rahman . . .," September 24–7, 1916, FO 686/149: 222–3.

of that ilk, including those among them who had been studying at Deoband.⁵⁶ He was an anti-imperialist revolutionary at this time, and the effort to introduce the English educated to Islam's foundational texts and to foster ties between them and what he saw as the more enlightened of the madrasa graduates was meant, in part at least, to pave the way for the anti-colonial struggle. A quarter century of exile did much to dampen Sindhi's revolutionary zeal, and he had effectively renounced even his pan-Islamic aspirations by the time he was allowed back into India in 1939. His desire to bring people of different intellectual formations closer together remained undiminished, but the main concern now was the economic uplift of the people of India and, as we will observe in [Chapter 7](#), socioeconomic justice. Sindhi remained staunchly opposed to colonial rule, but his political radicalism was long behind him. Instead, there was a keen recognition of the need for Muslims to learn English and the Western sciences and to better understand the social, economic, and political developments in contemporary Europe.⁵⁷

A more nuanced view of the West than the caricatures that many of his contemporaries traded in had many merits. Not the least of these, as Sindhi saw it, was the concomitant recognition that the seemingly insuperable dichotomy between a spiritual East and a materialist West was itself a mirage. In a book published toward the end of Sindhi's life, his disciple and biographer, Muhammad Sarwar (d. 1983), paraphrases the master's views on this matter as follows:

The religion of those religious leaders who deny the material side of life is nothing more than a mad man's dream, and it has nothing to do with practical matters. At the same time, we say to those Europeanized people who do not accept anything beyond material life that they have fallen prey to a superficial [view of] Europe. I wish they knew that European thought has never been devoid of higher concepts. It is true that materialist conceptions have been in vogue there, but there has always been in Europe

⁵⁶ On this institution, see Sindhi, "Khud nawisht" in idem, *Kabul*, 154; Madani, *Naqsh-i hayat*, 2: 554–5; Mushirul Hasan, *A Nationalist Conscience: M. A. Ansari, the Congress and the Raj* (Delhi: Manohar, 1987), 40, 52–3. Sindhi received high praise from Shibli Nu'mani, who had visited this institution in March 1914: "I believe that Mawlavi 'Ubayd Allah is the only person at this time who can fulfil the goals [of the Nizarat al-Ma'arif]. He is a madrasa and a dar al-'ulum in his own right. Wherever he sits down may well be considered the Nizarat al-Ma'arif. . . . My view of the need to create 'ulama suitable to the present age and to turn the English educated into 'ulama can and is being realized [through this institution]." Shibli [Nu'mani], "Nizarat al-Ma'arif Delhi," *Aligarh Institute Gazette*, April 8, 1914: 7. While he was still directing the Nizarat al-Ma'arif, Sindhi was also considered for the position of manager (*nazim*) of the Nadwat al-'Ulama, though he was passed over in favour of another candidate. See "Statement of Maulvi Mazharuddin . . ." November 14–18, 1916, FO 686/149: 316–17.

⁵⁷ Sindhi went so far as to argue, much to the chagrin of the 'ulama, that Muslims of India ought to adopt the Latin script for their languages, as Republican Turkey had done under the leadership of Atatürk. Sindhi, *Khutbat*, 91 (from a speech delivered before the 'ulama of Bengal in June 1939); the Indian language he was referring to on this occasion was that of the people of Sindh in north-western India. Somewhat counterintuitively, he also argued that the Indian 'ulama should not follow the contemporary Egyptian and Saudi experiments in simplifying the Arabic language. He worried that such simplification would diminish the 'ulama's ability to understand their classical texts. *Ibid.*, 95–6.

a community of those whose vision is not limited to this material world; and European minds are now increasingly inclined towards other ways of thinking. To the people of knowledge (*ahl-i `ilm*), the duality between science and religion, materialism and spirituality and, indeed, between the East and the West is now nothing more than immature thinking. . . .⁵⁸

Sindhi, too, wished to bridge the divide between the English educated and the `ulama, as has been seen. However, unlike many others seeking something similar, he had gradually come to question the very binary in terms of which the problem had commonly been framed. As so often, Sindhi credited his analysis to Shah Wali Allah's argument that all people shared certain values, that it was these that constituted the essence of humanity, and that the shari`a could be shown to promote human interests as encapsulated in such values.⁵⁹ But the immediate source of Sindhi's analysis was, of course, his own experience of life outside the Indian subcontinent, which had given him a perspective very different from his fellow `ulama's. Many among the latter recognized this, though in distinctly unfavorable terms. As Sayyid Sulayman Nadwi wrote in his preface to a strident critique of Sindhi's thought, he was like "a person who had suddenly moved from a pond to the sea."⁶⁰ The implication here is not only that the sheer impact of the contrast had unhinged him,⁶¹ but also that the insularity of his original context made him a less than credible interpreter of the wider world into which he had been thrown.

Yet there were internal critics even among those who had not quite jumped from the pond straight into the sea. One notable instance of these is Manazir Ahsan Gilani, whose contributions to the debate on financial interest we examined in the previous chapter. Following the completion of his studies around 1914, Gilani had briefly taught at the Deoband madrasa, although it was at the theology faculty of the Osmania University in Hyderabad that he spent much of his academic career. As the ruler of the princely state of Hyderabad and the patron of the university had put it in his founding decree of 1917, this institution was established so that "the new and the old, the Eastern and the Western arts and sciences, are brought together in such a way that the defects of the modern system of education are removed and full advantage is taken of the old and the new methods of physical, intellectual, and spiritual instruction. . . ."⁶² The medium of instruction at Osmania University,

⁵⁸ Sarwar, *Mawlana `Ubayd Allah Sindhi*, 71–2. Also see Fazlur Rahman, "Muslim Modernism in the Indo-Pakistan Subcontinent," *Bulletin of the School of Oriental and African Studies* 21 (1958): 93.

⁵⁹ Cf. Sarwar, *Mawlana `Ubayd Allah Sindhi*, 362–3.

⁶⁰ Sayyid Sulayman Nadwi, "Muqaddima," in Mas'ud `Alam Nadwi, *Mawlana Sindhi awr unke afkar wa khayalat*, 13 (with a pagination different from the rest of the book).

⁶¹ In an essay he wrote shortly after Sindhi's death, Husayn Ahmad Madani, too, suggested that Sindhi had lost his "mental balance." He attributed this to the hardships Sindhi had experienced during his long exile. See the untitled essay by Madani appended to `Ubayd Allah Sindhi, *Dhati Diary* (Lahore: Adabistan, 1946), 41–50, at 48–9.

⁶² Quoted in Sulayman Nadwi, *Shadharat*, 1: 44; cf. Datla, "Making a Worldly Vernacular," 50.

unlike the anglophone Aligarh, was to be Urdu, the lingua franca of the Muslims of India.⁶³ And a Translation Bureau was set up to make Western as well as some Islamic works available to students in the Urdu language. The Osmania University was not notably more successful in the integration of “the new and the old” than Aligarh had been, although the rhetoric seems to have had a longer life there than at Aligarh; and it may have contributed something to Gilani’s own efforts toward such integration.

Gilani’s two-volume book on Islamic education, first published in 1943, sheds much light on the history of Muslim intellectual life in medieval and early modern South Asia.⁶⁴ The real purpose of this book is, however, to argue for Muslim educational reform in his contemporary India. Gilani shows that the nucleus of Muslim education in pre-colonial India had comprised a remarkably small and stable body of religious texts.⁶⁵ He identifies these as the *Mishkat al-masabih*, a collection of the reported teachings of the Prophet Muhammad compiled by Muhammad b. `Abdallah al-Tabrizi (fl. 1337); a famous compendium of Hanafi law, the *Hidaya*, by al-Marghinani (d. 1196–7), together with a commentary on this work, the *Sharh al-wiqaya*, by `Ubayd Allah b. Mas`ud al-Mahbubi (d. 1346–7); and two very brief commentaries on the Qur’an, often treated as a single work called the “Two Jalals” – *al-Jalalayn* – because the two commentators were both named Jalal al-din (Jalal al-din al-Mahalli [d. 1459] and Jalal al-din al-Suyuti [d. 1505]).⁶⁶ Everything else, Gilani claims, was extraneous to this core curriculum, added or removed according to the exigencies of the time. Yet this small curriculum sufficed, he argues, to produce religious scholars of the highest caliber, intellectuals who were highly regarded in their own and later times not just in South Asia but also in the greater Muslim world.

The implications of this argument are obvious. Contrary to general belief both in and outside the madrasa, Gilani insists that there is nothing sacrosanct about much of what is taught in madrasas. As long as certain key texts were retained, other texts and disciplines could be dispensed with to make room for new texts,

⁶³ The language of instruction was changed from Urdu to English in 1951, not long after the merger of the princely state of Hyderabad into the postcolonial Indian union. See Datla, “Making a Worldly Vernacular,” 196.

⁶⁴ Manazir Ahsan Gilani, *Pak wa Hind main musalmanon ka nizama-i ta`lim wa tarbiyat* (Lahore: Maktaba-yi Rahmaniyya, n.d.).

⁶⁵ Gilani’s attempt to bridge the distance between religious and secular learning is, paradoxically, predicated on a firm distinction between the religious and the secular, a distinction that owes much to British colonial categories of analysis. See n. 2.

⁶⁶ Remarkably, Gilani’s list of core texts is quite similar to the texts Sayyid Ahmad Khan, the modernist reformer, had identified in 1872 as providing the basis for the Arabic and Persian program of studies that was to exist alongside the English and Urdu streams of education at his proposed college. See “Translation of the Report of the Members of the Select Committee for the Better Diffusion and Advancement of Learning among the Muhammadans of India” in Shan Muhammad, ed., *The Aligarh Movement: Basic Documents, 1864–1898* (Delhi: Meenakshi Prakashan, 1978), 2: 337–80, at 377. Also see Lelyveld, “Disenchantment at Aligarh,” 89–90. As it turned out, however, this program in Islamic Studies never got off the ground at Sayyid Ahmad’s college.

new sciences, which is precisely what earlier generations of madrasa scholars had done all along. Particular texts were included in the curriculum of the madrasa not because of their intrinsic “religious” value but rather because they had helped, in their time, to shape and hone the intellectual faculties of the students. By this criterion, there ought to be no objection to the continual revaluation and change of the madrasa curriculum to make room for new texts, techniques, and sciences that served the pedagogical and intellectual concerns of the time most effectively.

This is only half of Gilani’s proposal, however. The other half concerns not the madrasas but the westernized institutions of learning. Just as the madrasas could easily dispense with much of their inherited textual baggage to make way for new texts and disciplines, the westernized institutions (he was clearly thinking of Aligarh here, though he did not mention it explicitly) ought to also have the same core curriculum of religious texts.⁶⁷ Once these texts were in place, the rest of the (secular) curriculum would cease to pose any serious challenges to Muslim religious identity, and there would be no duality of intellectual traditions, no intellectual schizophrenia in Muslim societies.

This vision of Muslim educational reform expected a great deal of the `ulama, in that they would have had to consent to the virtual demise of madrasas except as select institutions of specialized higher education.⁶⁸ But it also expected a lot from the westernized Muslim colleges and universities, which would have had to agree to a substantial curriculum in the study of Islam.⁶⁹ They have seldom done so. In colonial South Asia, such westernized institutions were, in any case, too few to adequately cater to the needs of all Muslims. Gilani seems eventually to have realized that his proposals would not convince many people, whereupon he came up with a considerably more modest idea. Muslims ought to enroll and study in westernized institutions of all kinds, he now suggested. Rather than spending large amounts of money on establishing new institutions of Western education specifically for Muslims – of which Aligarh, the Osmania University in Hyderabad, and the Jamia Millia Islamia

⁶⁷ Cf. Gilani, *Nizam-i ta`lim*, 1: 252–7.

⁶⁸ Gilani once complained that although he had written this book in *defense* of the `ulama’s system of education, they had generally ignored it. He had not known, he said, “that it is not just the books of their opponents that [the `ulama] didn’t read; they didn’t even read the writings of those on their own side.” See Rahmani, ed., *Makatib-i Gilani*, 1: 357 (letter from Gilani to Sayyid Sulayman Nadwi, dated November 10, 1944). It is hard to believe, however, that many `ulama would have seen Gilani as being “on their own side” in this instance.

⁶⁹ Though Gilani shared, without acknowledgment, Sayyid Ahmad Khan’s view of what fundamental Islamic texts needed to be taught (see n. 66), the key difference between them was that Gilani wanted all Muslim students to study them whereas Sayyid Ahmad had envisioned them only for those at Aligarh who would be specializing in the study of Islam. Cf. Lelyveld, “Disenchantment at Aligarh,” 89–90 (without reference to Gilani).

of Delhi⁷⁰ were classic examples – the community should invest its resources in establishing boarding houses for Muslims studying in different educational institutions. Irrespective of the nature of education they received, Muslims would be reasonably secure in their religious identity if their moral formation took place in boarding houses that self-consciously cultivated their Islamic sensibilities. As Gilani sees it, this relatively modest proposal could enable Muslims to partake of modern educational opportunities more fully than they had done so far without constantly fearing for their faith.⁷¹ The institution of the madrasa remains unmentioned in this new proposal, which suggests that the real threat to Muslims is seen as coming from their exposure to Western education rather than from the intellectual schizophrenia of Muslim societies that Gilani had lamented in his history of Muslim education.

The precise impact of Gilani's ideas remains uncertain, although some among the `ulama have been rather more receptive to them than have Muslim modernists. In a detailed introduction to a collection of Gilani's letters, `Abd al-Bari Nadwi (d. 1976) strongly endorses Gilani's proposal for Muslim boarding houses as a way of socializing the Muslim youth in Islamic norms while lamenting that neither Gilani nor anyone else had done much to put this idea into effect.⁷² `Abd al-Bari was a product of the Nadwat al-`Ulama of Lucknow, which itself had been founded in the late nineteenth century with the goal of reducing the distance between traditional and westernized institutions of learning.⁷³ Like Gilani, he later taught at Osmania University, though in the Department of Philosophy rather than of Theology. Zafir al-din Miftahi, a biographer of Gilani and a leading mufti at the Dar al-`Ulum madrasa of Deoband, likewise applauds Gilani's proposal.⁷⁴ Gilani's aforementioned ideas for a radical restructuring of the madrasa curriculum are, however, passed over in silence here.

A more recent example of the continuing interest in aspects of Gilani's educational thought – in this instance, in a manner truer to the broader thrust of his ideas – is offered by a book on the curriculum of the madrasa by Sayyid

⁷⁰ This institution was founded in 1920, at the height of the anti-colonial Khilafat Movement, by those associated with Aligarh but opposed to the Aligarh administration's close identification with the colonial government.

⁷¹ `Abd al-Bari Nadwi, "Muqaddima: Bara nadir sangam – dil wa damagh donon ka," in Rahmani, *Makatib-i Gilani*, 1: 60–77. It is worth remarking here that Gilani's latter proposal shares an important affinity with the network of schools established in recent decades in Turkey, Central Asia, Pakistan, Europe, and elsewhere by those associated with the Turkish reformer Fethullah Gülen. These are not "Islamic schools" in any conventional sense but rather westernized educational institutions, teaching English and the modern sciences. It is in the dormitories managed by the school that an Islamic moral formation takes place, and living in such dormitories is usually mandatory for the students. See Berna Turam, *Between Islam and the State: The Politics of Engagement* (Stanford: Stanford University Press, 2007), 71–6, 98.

⁷² `Abd al-Bari Nadwi, "Muqaddima," in Rahmani, *Makatib-i Gilani*, 1: 60–77.

⁷³ On him see Zaman, *Ashraf `Ali Thanawi*, 103–4.

⁷⁴ Zafir al-din Miftahi, *Hayat-i mawlana Gilani* (Benares: Mawlana Yusuf Academy, 1989), 195–6.

Salman Nadwi (not to be confused with the aforementioned Sayyid Sulayman Nadwi).⁷⁵ A product both of the Nadwat al-`Ulama and of the Imam Muhammad ibn Sa`ud Islamic University in Riyadh, Saudi Arabia, and now the dean of the faculty of shari`a at the Nadwat al-`Ulama, Salman Nadwi cites Gilani extensively in this work, and the book itself is guided by concerns broadly similar to Gilani's.⁷⁶ Striking a familiar note, Salman Nadwi observes that the Muslim community has suffered greatly because of its division between two very unequal groups: a small group of those representing religious life and a preponderant majority comprising those raised on an "irreligious education" (*la-dini ta`lim*). A consequence of this division has been an increasingly narrow concern of the religious class (*tabaqa*) with matters of worship, he says, with the result that the `ulama have had little to offer by way of sound leadership in social, economic, and political matters, and there is even less incentive on the part of others to heed their advice in such matters.⁷⁷

While he now occupies a position of leadership at the Nadwat al-`Ulama, Salman Nadwi freely acknowledges that his institution has largely failed in its early aspiration to remedy the divide between secular and religious learning. More remarkable than this candid admission is his observation that it is those belonging to the Tablighi Jama`at who have been rather more successful in mitigating the long-standing division between rival intellectual streams.⁷⁸ This is remarkable because the Tablighi Jama`at is not an educational venture in any conventional sense but rather a worldwide proselytizing movement that had originated in northern India during the first half of the twentieth century with the goal of reintroducing Muslims to the fundamental norms of their faith; while focusing primarily on Muslims, it has been concerned with the preaching of Islam to non-Muslims as well.⁷⁹ The Tablighi Jama`at is largely a product of the Deobandi milieu, but unlike the madrasa-based Deobandi `ulama, leaders of the Tablighi movement are known for their distrust of any and all scholarly pursuits. The rank and file of the movement consists of those who are not formally trained `ulama but rather people with different levels of modern education. As Salman Nadwi notes, the Tablighi Jama`at has influential centers at Aligarh Muslim University as well as at other institutions of modern education, and graduates of these universities have served as preachers on behalf of the Tablighi Jama`at.⁸⁰ Yet this movement does not have any serious ideas for solving the religious, social, economic, and political problems of the people, he says. The result is that while it has been able to reduce the "spiritual . . . gulf"

⁷⁵ Sayyid Salman Husayni Nadwi, *Hamara nisab-i ta`lim kiya ho?* (Lucknow: Jami`a Sayyid Ahmad Shahid, 2004).

⁷⁶ *Ibid.*, especially 104–17.

⁷⁷ *Ibid.*, 232.

⁷⁸ *Ibid.*, 258–9.

⁷⁹ Muhammad Khalid Masud, ed., *Travelers in Faith: Studies of the Tablighi Jama`at as a Transnational Islamic Movement for Faith Renewal* (Leiden: Brill, 2000).

⁸⁰ Salman Nadwi, *Hamara nisab-i ta`lim*, 258.

(*ruhani . . . khalij*) between people of different intellectual formations, the “intellectual, civilizational, and cultural gulf” (*fikri awr tahzibi wa tamadduni khalij*) between them has remained unaffected.⁸¹ This continuing distance has, for its part, enabled the college- and university-educated Islamists to step into this vacuum in trying to provide what Salman Nadwi sees as a less than desirable leadership to the community.⁸²

In the aftermath of 9/11, Salman Nadwi has continued to argue for the need to bridge the divide between rival streams of education. But the defense of the madrasa itself now takes center stage. This is not surprising in view of the extensively unfavorable attention madrasas in India and elsewhere have received from the media and government circles for suspected ties to terrorism. Yet such defense has sometimes itself been articulated in strident terms. As Salman Nadwi put it in a 2007 interview:

The ulema of the madrasas, who are well-versed with [sic] the history of the Muslims and of Islam, play a crucial role in shaping the mentality of the Muslim masses and . . . [in giving] them a certain direction. America knows that this class of people can effectively mobilize opposition to its imperialistic policies and designs, and so it is seeking to undermine them. In order to legitimize its imperialist aggression against many Muslim countries, it constantly claims that the ulema are “terrorists,” “extremists,” “obscurantists,” and so on.⁸³

Such rhetoric seems to do a better job of expressing the depth of Salman Nadwi’s suspicions of the outside world than it does of improving the madrasa’s image in contemporary India, let alone mitigating its perceived incommensurability with rival intellectual streams. In these instances, he also sounds a good deal like Qaradawi who, as observed earlier, anchors his efforts to transcend particular dichotomies afflicting Muslims and Islamic thought in the affirmation of a relentless cultural and political struggle between Islam and the West. Qaradawi, too, has been harshly critical of efforts to reform religious education under perceived American pressure: “America today is sticking its nose into the most specific of the Muslim community’s internal affairs,” he writes in his 2009 *Jurisprudence of Jihad*, “among them education, information, and culture. With remarkable bluntness, it is demanding change in methods of teaching religion, so that they accord with its own philosophy and culture. This is what it has asked of Saudi Arabia, Pakistan, Egypt, and other countries. It wants us to raise our children not as we wish but

⁸¹ Ibid., 259.

⁸² Ibid. Cf. Qaradawi, *Ibn al-qarya*, 1: 316, for the argument that, in the 1940s, the Muslim Brotherhood of Egypt helped bridge the distance between the products of religious (*diniyya*) and secular (*madaniyya*) education. Qaradawi’s view of this Islamist mediation is obviously more positive than Salman Nadwi’s.

⁸³ “Madrasas and Charges of ‘Terrorism’: Interview with Maulana Salman Nadwi,” http://www.theamericanmuslim.org/tam.php/features/articles/madrasas_and_charges_of_te... (posted October 29, 2007; accessed March 16, 2008).

as *it wishes*.”⁸⁴ Rather like Qaradawi, once again, Salman Nadwi’s discourses on the need to live peacefully with other communities – in his case, with the Hindu majority in India – easily shade into assertions of Islam’s superiority over all others and even assertions about the need to defend Islam with the force of arms, if necessary.⁸⁵

These echoes should not surprise us. Many Muslims, and not only among Islamists and the `ulama, do, in fact, share a similar analysis, just as many others reject it. But echoes of Qaradawi’s rhetoric surely also have to do with his own ties with the Nadwat al-`Ulama. Qaradawi is the author of a book celebrating the life and achievements of Abu’l-Hasan `Ali Nadwi (d. 1999), the former rector of the Nadwa. He was an honored guest at the Nadwa in Lucknow on several occasions, including its eighty-fifth anniversary in 1975; and it was Salman Nadwi who had translated Qaradawi’s speech into Urdu on that occasion.⁸⁶ Like `Ali Nadwi, Salman Nadwi has interacted extensively with scholars from the Arab world, while also translating many of `Ali Nadwi’s writings into Arabic. These ties, with Qaradawi and with other Arab religious intellectuals, have continued. And Salman Nadwi is not only a member of Qaradawi’s `Ulama Union, but he has also served on its board of trustees.⁸⁷

Themes similar to those of Qaradawi and Salman Nadwi are clearly discernible in the discourses of contemporary Deobandi `ulama of Pakistan as well. For instance, Abu `Ammar Zahid al-Rashidi of the Nusrat al-`Ulum madrasa in Gujranwala, in the Punjab, has written extensively in recent years on the need to rethink the curriculum of the madrasa and to integrate the modern sciences into it.⁸⁸ The rationale for this is, in part, that the `ulama have the opportunity and, indeed, the obligation to expand the sphere of their activities in society, not only because people seek their guidance but also, and in no small measure, because of the failings of state-run educational and other institutions. The `ulama, however, cannot expand their activities in society unless they broaden their intellectual horizons.⁸⁹ Zahid al-Rashidi argues, furthermore, that the best of the earlier `ulama have always striven to combat challenges to Islam by appropriating the tools of those posing the challenge in question:

⁸⁴ Qaradawi, *Fiqh al-jihad*, 1: 521–2.

⁸⁵ Cf. Sayyid Salman Husayni Nadwi, *Azadi-yi Hind, haqiqat ya sarab* (Lucknow: Jam`iyyat shabab al-Islam, 2004), 63: “Our religion has come [to the world] in order to remain forever; no other religion will remain forever. . . . Our sacred law (*shari`at*) is the last of such laws; there is no place after it for any other sacred or secular law (*shari`at wa qanun*). We should not despair. It is our law that will triumph. It is our religion that will triumph. God will [again] exalt the Muslim community. . . .” (from a speech delivered at a women’s madrasa in 2004). On the assertion that Islam does not limit itself to “defensive warfare,” see *ibid.*, 22–3 (from a speech at the Nadwat al-`Ulama in 1997).

⁸⁶ Qaradawi, *al-Shaykh Abu’l-Hasan `Ali Nadwi kama `araftuhu*, 24.

⁸⁷ <http://www.iuonline.net/English/topic.o6b.shtml> (accessed October 25, 2007).

⁸⁸ Abu `Ammar Zahid al-Rashidi, *Dini madaris ka nisab wa nizam* (Gujranwala: al-Shari`a Academy, 2007).

⁸⁹ *Ibid.*, 303–5.

When Greek philosophy became popular in our society and began to affect our belief system, our leading figures like Abu'l-Hasan al-Ash`ari [d. 935], Abu Mansur al-Maturidi [d. 944], Ghazali [d. 1111], Ibn Rushd [1198], and Ibn Taymiyya [d. 1328] came to master Greek philosophy. They affirmed the truth and superiority of Islamic beliefs by responding to the objections and doubts created by Greek philosophy and they did so by employing its own technical vocabulary.⁹⁰

Like Qaradawi, Zahid al-Rashidi seems to be in little doubt that there is a civilizational conflict between Islam and the West today. Yet, he writes, “the teachers and students of madrasas . . . are unacquainted with the enemy that we are fighting – its nature, its mode of operation, its weapons, and its overall framework.”⁹¹ Islamic norms and Muslim identity are being targeted in the name of globalization and human rights, he says, sounding very much like Qaradawi.⁹² And it is for the `ulama “to expound on the intellectual, religious, and cultural aspects of this conflict, to confront this aggression with the modern weapons of philosophical and other thought, of learning and research, and to defend Muslims against this deluge by building fortifications in the form of education, proselytism, reform and intellectual awakening . . .”⁹³ One rather unusual instance of Zahid al-Rashidi’s own efforts in this regard is his regular exposition of the United Nations’ Declaration of Human Rights for the benefit of his advanced madrasa students. Here he seeks to place the Declaration in its intellectual and historical context and to systematically compare it with particular Islamic norms. As he sees it, “the benefit [of this exercise] is that it makes it easy for young `ulama to understand today’s global struggle between civilizations, the ongoing battle for cultural supremacy between the West and Muslims.”⁹⁴

THE SIGNIFICANCE OF BLAND DICHOTOMIES

A key question presents itself in light of the foregoing discussion. How do we account for the persistence of the rhetoric about the need to bridge the duality of intellectual traditions in Muslim societies? In addressing this question, we should first note that important developments have, in fact, continued to take place in bringing the two streams of Islamic and modern learning closer to each other in varied contexts. In Egypt, the 1961 reforms of the Azhar established a number of faculties for the teaching of the modern secular sciences alongside the three existing faculties devoted to Arabic and Islamic studies. Sweeping as they were in their effects, these reforms had built on decades of earlier initiatives in a

⁹⁰ Ibid., 306.

⁹¹ Ibid.

⁹² Although he does not cite Qaradawi here, it is worth recalling that Zahid al-Rashidi is a member of the International Union of Muslim Scholars founded by Qaradawi.

⁹³ Zahid al-Rashidi, *Dini madaris*, 298.

⁹⁴ Ibid., 239.

similar direction. Madrasas in many parts of India have come to be increasingly integrated into the educational mainstream, and even those, in both India and Pakistan, that ostensibly resist governmental efforts to regulate them have often opened themselves up to the content of public schools at the elementary levels, and sometimes considerably more than that.⁹⁵ Although his 2011 appointment proved short-lived, it is significant that Ghulam Muhammad Vastanavi, the controversial principal (muhtamim) of the Dar al-`Ulum of Deoband, himself had an MBA, the first high-ranking official of this madrasa with such educational credentials. At the other end of the spectrum, public schools in many Muslim countries impart substantial Islamic education as part of their curriculum. Gregory Starrett has explored the often-unexpected consequences of the teaching of Islam in Egyptian public schools,⁹⁶ though such instruction is scarcely limited to Egypt.

Ordinary believers have been taking their own steps toward integrating religious and secular learning as well. As Matthew Nelson has argued with reference to attitudes toward Islamic education in contemporary Pakistan, “the overwhelming majority do not approach their educational options (for example, religious versus non-religious education) as a zero-sum game. Instead . . . most families are inclined to construct a careful balance of sorts, including both types of education at the same time.”⁹⁷ In contemporary India, Salman Nadwi’s aforementioned observation about the Tablighi Jama`at serving as a bridge between religious and secular learning likewise points to informal mechanisms whereby ordinary believers have often been able to bring different streams of learning closer together.

Why, then, do discourses on the need to bridge the distance between rival streams seem to continue unabated? There are several ways of accounting for this. For one thing, for all their starkly dichotomous juxtapositions, some of these divides are still real: there *is* considerable contestation in segments of Muslim societies not only on how to bring religious and secular forms of knowledge closer together but on whether to do so at all. Some of the international notoriety the Taliban had gained during their short-lived rule in Afghanistan (1996–2001) came, for instance, from their shutting down of girls’ schools. Though the Taliban regime collapsed not long after the terrorist attacks of September 11, 2001, groups of Taliban and those claiming affinity with them reemerged in subsequent years both in southern Afghanistan and in Pakistan’s Khyber Pakhtunkhwa province. Foremost among the many ways in which these neo-Taliban have harassed local populations and challenged government authority is by attacking schools, especially those for girls. As one spokesman for the Pakistani Taliban was quoted as saying in July 2008, they were “not against girls’ education although they opposed the system

⁹⁵ Barbara D. Metcalf, “Madrasas and Minorities in Secular India,” in Hefner and Zaman, eds., *Schooling Islam*, 87–106; Zaman, “Tradition and Authority,” in *ibid.*, 79–82.

⁹⁶ Gregory Starrett, *Putting Islam to Work* (Berkeley: University of California Press, 1998).

⁹⁷ Matthew J. Nelson, “Dealing with Difference: Religious Education and the Challenge of Democracy in Pakistan.” *Modern Asian Studies* 43 (2009): 591–618, at 595.

of women's education in the country."⁹⁸ Though it is not spelled out here, the grounds on which "the system of women's education" is opposed have to do with the Taliban's conflating non-Islamic with *anti*-Islamic, hence immoral, ways of thinking. Needless to say, such connotations do not allow much space for boys' public schools either.⁹⁹

The Taliban and their associates represent an especially egregious instance of opposition to modern, secular learning, an extreme stance that many even among the Deobandi `ulama – the Taliban are broadly identifiable as belonging to the Deobandi orientation – have found objectionable and embarrassing.¹⁰⁰ It is surely against the not incorrect perception that at least some segments of the Muslim population, and their religiopolitical leaders, still oppose the integration of religious and secular learning that many `ulama have continued to emphasize the need for such integration. Yet, even as they call for educational reform, it is not unusual for such religious scholars to go on to reserve for themselves the prerogative of determining the precise path and pace of reform. This suggests their concern not to allow the modernizing governing elite to appropriate the `ulama's hesitant openness to reform for their own purposes; but it also reinforces the dichotomy of religious and secular learning in the very act of transcending it. Nor is thinking in terms of the religious-secular divide an innovation of the `ulama. Many among them would assert, and not without some justice, that the terms of the debate have been imposed on them by the world they inhabit – and especially by the colonial and postcolonial modernizing elite¹⁰¹ – and that the `ulama now seek only to mitigate its deleterious effects.

The *efficacy* of initiatives toward integrating the religious and the secular streams has often also left many unconvinced on both sides. In a work published in the mid-1980s to commemorate the millennial celebrations of Egypt's al-Azhar, Qaradawi had noted, for instance, that there was little intellectual exchange between those studying in the religious and in the secular faculties of this university.¹⁰² Almost contemporaneously with Qaradawi's volume on al-Azhar, the noted Pakistani modernist Fazlur Rahman (d. 1988) had lamented, with some exaggeration, that "despite a widespread and sometimes deep consciousness of the dichotomy of

⁹⁸ Hameedullah Khan, "Girls' School, Shops Blown Up in Swat," *Dawn*, July 26, 2008.

⁹⁹ According to one April 2010 estimate, nearly 1,000 schools had been destroyed by the militants in the Khyber Pakhtunkhwa province. This included more than 400 schools in the troubled Swat region alone. See Syed Irfan Ashraf, "Darkness at Noon," *Dawn*, April 26, 2010. For some earlier estimates, see Hameedullah Khan "School Building, MNA's House Blown Up in Swat," *Dawn*, December 13, 2008.

¹⁰⁰ Zaman, *The Ulama*, 139–40.

¹⁰¹ Cf. Ali Usman Qasmi, "God's Kingdom on Earth? Politics of Islam in Pakistan, 1947–1969," *Modern Asian Studies* 44 (2010): 1247–53.

¹⁰² Qaradawi, *Risalat al-Azhar*, 101–2; cf. Malika Zeghal, "Religion and Politics in Egypt: The Ulama of al-Azhar, Radical Islam, and the State (1952–94)," *International Journal of Middle East Studies* 31 (1999): 371–99.

education, all efforts at a genuine integration have so far been largely unfruitful.”¹⁰³ Even the Islamic Fiqh Academy of India, whose goals include introducing college- and university-educated Muslims to facets of the Islamic scholarly tradition and madrasa-graduates to modern forms of knowledge,¹⁰⁴ has had only moderate success in this venture.¹⁰⁵ And although the aforementioned Vastanavi’s removal from the position of the Deoband madrasa’s muhtamim, six months after his appointment in January 2011, was ostensibly in response to certain controversial remarks he had made, some `ulama may have been uncomfortable as well with the unusual degree to which he combined, and sought to promote, religious with secular learning.¹⁰⁶

Overlapping explanations such as the foregoing are not without merit, but it is tempting to account for the sheer persistence of discourses on bridging religious and secular learning in another way, too. To the extent that they have embraced the dichotomous mode of analysis underlying such discourses, could it perhaps be a means through which the `ulama have sought to reorder some of the messiness of the social, religious, and intellectual conflicts they find around themselves? This new dichotomy is not imaginary, as we have observed. Yet it also is an intellectual construct, designed to make sense of contested relations among different forms and conceptions of knowledge and among people associated with them. Contestations over particular conceptions of knowledge do not necessarily have to be analyzed, after all, in terms of this (or any other) dichotomy – a point that `Ubayd Allah Sindhi had made long ago. The fact that, with some notable exceptions, these

¹⁰³ Fazlur Rahman, *Islam and Modernity*, 130.

¹⁰⁴ Islamic Fiqh Academy, “Aims and Objectives,” #15, at <http://ifa-india.org/english/aimsObjectives.html> (accessed November 17, 2009).

¹⁰⁵ Khalid Sayf Allah Rahmani, “Hayat-i Mujahid,” in Khalid Sayf Allah Rahmani, ed., *Faqih al-`asr: Hadrat Mawlana Qadi Mujahid al-Islam Qasimi: Hayat wa khidmat, afkar wa athar* (Hyderabad: Bayt al-`ilm, 2003), 92–3.

¹⁰⁶ Commenting on his native state of Gujarat in western India shortly after his appointment, Vastanavi had said in an interview with the *Times of India* that there was “no discrimination against the minorities in the state as far as development was concerned.” He continued: “Development has undoubtedly taken place in Gujarat and we hope it will continue. I ask Muslims to study well. The government is ready to offer jobs (to them), but for that, they need good education.” Yagnesh Mehta, “New Deoband Chief Lauds Modi’s Gujarat,” *The Times of India*, January 19, 2011. Gujarat, it is worth recalling, was the scene of brutal anti-Muslim riots in 2002, allegedly with the connivance of the Hindu nationalist chief minister Narendra Modi, who continues in office. Vastanavi’s remarks provoked severe criticism from within and outside the Deoband establishment. He was dismissed by Deoband’s advisory council (*majlis-i shura*) in July 2011 after he refused to resign following the report of a committee constituted to look into the controversy. Politics internal to Deoband was widely thought to have had a role as well in this outcome. Vastanavi was opposed by influential members of the Madani family, the sons and successors of Husayn Ahmad Madani, who have long had a major influence both on the madrasa and on the Deobandi political organization, the Jam’iyyat al-`Ulama-i Hind. On this controversy, see S. Raju, “Anti-Vastanvi Wave: Jamiat Trying to Regain Prominence,” *The Hindustan Times* (Delhi), January 28, 2011; Atiq Khan, “Vastanvi Removed as Darul Uloom Chief,” *The Hindu* (Delhi), July 24, 2011. For Deoband’s official statement on this matter, see “Dar al-`Ulum Deoband ka wadhati bayan,” <http://www.darululoom-deoband.com/urdu/news/shownews.php?id=82> [7/27/2011 5:07:46 PM] (dated July 27, 2011; accessed July 27, 2011).

contestations *are* so analyzed suggests that framing the issues in this way helps dislodge from center stage a number of other conflicts, say, between and among Muslims of different sectarian, political, and intellectual orientations, among rival schools of thought, among people of varied commitments. In outlining the goals of his monthly journal, *al-Shari`a*, Zahid al-Rashidi comes close to acknowledging as much when he notes that, although he belongs to the Deobandi-Hanafi school, his journal, in contrast with many others, is concerned “not with [intra-Muslim] juridical and doctrinal struggles but rather with presenting – in the context of the broad-ranging intellectual and cultural onslaught of the West – the teachings of Islam in a new style and language.”¹⁰⁷

Historically, the Sunni tradition had learned to live with these messy, and often interminable, conflicts. As Patricia Crone has observed:

[With the gradual emergence of Sunni Islam] mainstream Muslims came fully to accept that the umma had to consist of a wide variety of different and even antagonistic groups pursuing diverse aims and objectives under the same general Islamic umbrella. The umma ceased to be a caravan taking everyone by the same route to the same destination. Sinners and upright people, believers and sinful Muslims, adherents of one legal school and the other, people moving in quite different directions under intellectual imams of their own: all these and more came to form a single community eventually known as Sunni.¹⁰⁸

The discourse on religious and secular learning might be seen, then, as a way to at least rhetorically do away with some of these earlier conflicts in the interest of a simpler, more streamlined Islamic identity – one anchored in the aspiration to combine religious and worldly forms of knowledge and to unite contemporary Muslims in this aspiration. As Matthew Nelson has argued in the aforementioned study, the idea that there is a single, true Islam and that Muslims ought to transcend or ignore particularistic sectarian and other commitments to be united in devotion to this Islam resonates widely among vast sectors of society in Pakistan. Much the same might be said of Muslims in many other societies. The discourse on how to bridge the gap between secular and religious learning tends to posit Islam as itself a homogeneous, shared entity,¹⁰⁹ with the remaining question being how to seamlessly combine it with modern forms of knowledge.

Yet one hardly needs to probe very deeply to see that a great deal of contestation on conceptions of politics, Islam, and the place of Muslims in the world does, in fact, lie just beneath the surface of such seemingly bland dichotomies. The exchange between Muhsin al-Mulk and Rashid Rida leaves little doubt, for

¹⁰⁷ Zahid al-Rashidi, *Ijtihad*, 325–6. There may be some tension between the specific focus on responding to the “intellectual and cultural onslaught of the West” and the desire to foster open-ended debate on a variety of issues (cf. *ibid.*, 323–5; also see [Chapter 4](#), n. 121). This tension remains unaddressed here.

¹⁰⁸ Crone, *God’s Rule*, 389–90.

¹⁰⁹ Nelson, “Dealing with Difference.”

instance, that questions of educational reform are intertwined with politics. But there is little agreement between the two on the precise relationship between the religious and the political. Nor do the other examples we have considered reveal very much by way of shared, overarching conceptions of Muslim politics in which questions of religious education are often anchored. In their different contexts, Rida and Qaradawi envisage an Islamic religiopolitical order, and bridging or collapsing the divide between the religious and the secular is a means to the emergence of a new elite shepherding it. There are differences, however. Qaradawi sees a revitalized Muslim consciousness at the global level as the crucial means of effectively combating the threats confronting Islam; in its local expressions, this consciousness is equally to serve as a check on authoritarian and godless rulers, as observed in [Chapter 4](#). With contemporary information and communication technologies and unprecedented concomitant possibilities for establishing transnational institutions, this global Muslim consciousness is a far less elusive goal for Qaradawi than it would have been for Rida. Despite Rida's envisioning of a mujtahid-caliph and the *ahl al-hall wa'l-'aqd* attending upon him, the *'ulama's* leadership is, furthermore, considerably more central in how Qaradawi imagines the global Muslim community than it was in Rida's discourses. And his long-standing interest in reclaiming the state for Islam notwithstanding, Qaradawi has increasingly tended to anchor his vision of the Muslim world not in structures of the state – as Rida did with his treatise on the caliphate – but in civil society institutions,¹¹⁰ especially at the global level. Bridging the putative gulf between Islamic and modern learning is a crucial means – though scarcely the only one – of fostering this civil society and, in turn, of strengthening Muslim defenses in the new civilizational conflict between Islam and the West. In contemporary India, Salman Nadwi, too, has vivid memories of Muslim grandeur, and he, too, speaks in Manichaean terms about Islam in relation to much of the rest of the world. Even so, unlike Rida and Qaradawi, Salman Nadwi's calls for Muslim political mobilization are premised not on aspirations to establish an Islamic state or on Islamic internationalism but rather on a sense of belonging to secular India and of claiming Muslim cultural and political rights on *that* basis.¹¹¹

In an earlier generation, Manazir Ahsan Gilani was among countless other *'ulama* who had decided not to emigrate from India to Pakistan at the time of the partition of the Indian subcontinent. Commenting on justifications for a separate homeland on grounds of peace and security for Muslims, and in an eerie anticipation of the sectarian violence that would plague Pakistan from the 1980s, Gilani had also observed that “for conflict and violence, one didn't need the difference between *Hindus and Muslims*; even greater bloodshed could be brought

¹¹⁰ Salvatore, “Qaradawi's Maslaha, 248.

¹¹¹ Salman Nadwi, *Azadi-yi Hind*, 61–2.

about, by those so inclined, through the Shi'i-Sunni problem or simply by invoking words like 'Wahhabi' and 'non-Wahhabi,' 'Deobandi,' 'Barelawi,' and so forth."¹¹² In some extreme circumstances, he acknowledged, people did need to move or else they were in danger of losing what made them distinctive. "But to simply abandon one's base in every little worrisome circumstance, and to consider this as the dictates of reason and sound opinion, is not only cowardice but also the betrayal of millions of weak and helpless people who would be left behind in the clutches of the enemy."¹¹³ In such circumstances as in others, Islamic education was a crucial means of preserving Muslim identity. And, as Gilani saw it, this education could be integrated with modern, secular disciplines – just as Muslims had done at earlier times according to the imperatives of those times.

There is a partial analogue to Gilani's minimalist conception of Islamic education in his view that the Qur'an should not be thought to contain "everything." The implication of this point, which he credited to his teacher, Anwarshah Kashmiri of Deoband, is, of course, that efforts to read all knowledge and justifications for all human endeavors – from modern science to politics – back into the Qur'an are misguided.¹¹⁴ For all the centrality of the Qur'an to his understanding of ethical universals, Sindhi would have agreed with this view. This perspective is in marked tension, however, with the view of many Islamists, including Sayyid Abu'l-A'la Mawdudi of Pakistan, that Muslims ought to take the Qur'an as the starting point of all knowledge, including the natural sciences.¹¹⁵ Gilani's view also stands in sharp contrast with Rashid Rida's conviction that the teachings of the Islamic foundational texts can be shown to be extendable, through analogical reasoning, to all facets of life. As Ahmad Dallal observes, "in an age of the ever increasing powers of the nation state, a jurisdiction that covered 'all aspects of life' [had] . . . seemed

¹¹² Manazir Ahsan Gilani, *Tadhkira-i hadrat Shah Wali Allah* (Lyallpur [Faisalabad]: Islamic Academy, 1965; first published in 1952, this book was written in late colonial India), 60, emphasis added. Though the Deobandis and the "Wahhabis"/Salafis have had a difficult and acrimonious relationship with each other, they are both strongly opposed to the Barelawis on account of the latter's devotional practices, which both see as verging on the polytheistic.

¹¹³ Gilani, *Tadhkira*, 120.

¹¹⁴ Gilani, *Ihata-i Dar al-'Ulum Deoband*, 112–13, 118–29.

¹¹⁵ Sayyid Abu'l-A'la Mawdudi, "Naya nizam-i ta'lim," in idem, *Ta'limat* (Lahore: Islamic Publications 1972), 66–100, especially 93. For a discussion of this speech as well as some of Mawdudi's other ideas on education, see Irfan Ahmad, "Power, Purity and the Vanguard: Educational Ideology of the Jama'at-i Islami of India," in Jamal Malik, ed., *Madrasas in South Asia: Teaching Terror?* (London: Routledge, 2008), 142–64. It is worth noting that Islamists like Mawdudi are not in altogether bad company in this view of the Qur'an. Adducing Q 5:59 ("... there is nothing, fresh or withered, that is not written in a clear book"), Ghazali had taken the view that although "all knowledge is not explicitly present in the Qur'an, it is potentially (*bi'l-quwwa*) present in it" (Abu Hamid al-Ghazali, *al-Qistas al-mustaqim*, ed. Victor Shalhat [Beirut: al-Matba'a al-kathulikiyya, 1959], 91). Other commentators on this verse do not usually understand the "book" here as referring to the Qur'an, however, seeing it rather as an affirmation of God's omniscience.

more appropriate to Rida than a legal code that did not purport to exhaust all aspects of this life.”¹¹⁶

Rather like the modern nation-state, Rida wanted the system of education, as he envisioned it, to produce people with a shared culture. As he had put it in his speech at Aligarh in 1912, just as a building will not have a secure foundation if its stones are all of different shapes and sizes, so too will the Muslim community not succeed if its members are at odds with one another in their intellectual formation.¹¹⁷ Rida seems to have been officiating here at a rather peculiar marriage of the supposedly shared convictions of the pious forbears, on the one hand, and, on the other, the sort of homogeneity modern nation-states seek to foster.¹¹⁸ Gilani, for his part, had a considerably less homogenous outcome in mind when proposing his minimalist combination of modern and Islamic learning.

Among the tensions we are left with in the end is the following. On the one hand, there clearly is a broad and growing agreement within the ranks of the leading `ulama as well as between the `ulama and other religious intellectuals that bridging the gulf between different intellectual traditions is desirable and, indeed, a matter of great urgency. On the other hand, there is no unanimity on precisely why the effort to do so is worth making. We can see this tension in more than one way. The fact that many religious intellectuals have long continued to lament the incommensurability of intellectual traditions in their societies suggests, of course, just how intractable the problem is and how elusive the prospects for any convincing solutions to it. At issue are competing understandings of what sort of education the Muslim youth ought to acquire, how the interests of Islam and the Muslim common good are best promoted, and what vision of politics – and of the world – ought to guide educational reform. Even when the principle that secular and religious forms of knowledge ought to be brought together into a shared system of education is acknowledged, the practical application of that principle remains a matter of suspicion. And much suspicion continues to characterize the relations between those who are products of Islamic institutions of learning and those graduating from westernized colleges and universities.

A rather different way of looking at the problem is also worth considering, however. From this vantage, the perceived dichotomy between religious and secular

¹¹⁶ Ahmad Dallal, “Appropriating the Past,” 356–7; cf. Clark B. Lombardi, *State Law as Islamic Law in Modern Egypt: The Incorporation of the Shari`a into Egyptian Constitutional Law* (Leiden: Brill, 2006), 90. The nineteenth-century pan-Islamist Sayyid Jamal al-din, who had exercised a major intellectual influence on `Abduh and, through him, on Rida, was also keen on reading modern natural science, politics, and economics back into the Qur’an. See Muhammad Basha al-Makhzumi, *Khatirat Jamal al-din al-Afghani al-Husayni* (Beirut: al-Matba`a al-`ilmiyya, 1931), 161–7; Hourani, *Arabic Thought*, 127. Kashmiri and Gilani are likely to have known of Jamal al-din’s views in this regard and may have been thinking of him when contesting them.

¹¹⁷ *al-Manar* 15 (1912), 573. Cf. *ibid.*, 29 (1928–9): 118.

¹¹⁸ Ernest Gellner, *Nations and Nationalism* (Oxford: Blackwell, 1983); cf. John Bowen, *Why the French Don’t Like Headscarves* (Princeton: Princeton University Press, 2007).

learning, or the tension between a growing agreement to transcend this dichotomy and the lack of substantial agreement on why or how to do so, can itself be viewed as a fertile ground for new ways of thinking about Islam, education, and politics in their interrelationship. Not unlike debates on financial interest, as reviewed in the previous chapter, anxieties about how to bridge rival traditions, and uncertainties about the sort of criticism – of a “neo-imperialist” West, of modernists and the `ulama, of facets of the scholarly tradition – that this effort would seem to require are all constitutive of an evolving arena of debate and contestation that, in its scope, implications, and possibilities extends well beyond any dichotomous constructions. In South Asia and the Middle East, not a few among the traditionally educated religious scholars continue – alongside many others – to be important contributors to the shaping of this arena.



Women, Law, and Society

THE CONTENTIOUSNESS OF THE DEBATE ON EDUCATIONAL REFORM pales, as we will see in this chapter, when compared to discourses on the reform of legal norms that specifically concern women. This is not unexpected. Issues relating to women are, after all, often intertwined with questions of “honor” in many conservative societies, making them more sensitive than almost anything else. Further, and despite the often ambiguous relationship between customary and shari`a norms, the laws of personal status (notably marriage, divorce, and inheritance) have been among the most widely practiced stipulations of the shari`a in premodern and many modern Muslim societies.¹ This means that any threat to their continued functioning provokes strong responses from many quarters. At the same time, such things as polygamy and the shari`a’s affirmation of male authority over women have often been seen, by non-Muslim observers and many Muslim modernists, as the very heart of what ails Islam and keeps it backward, with the result that these are precisely the laws that have borne the brunt of reformist initiatives at the hands of the modernizing governing elite.

My purpose in this chapter is not to recount the history of modernist initiatives vis-à-vis marriage, divorce, and related laws. Such measures have been described at length by a number of other scholars.² My concern is, rather, to examine how the `ulama have debated the norms in question, specifically as they relate to marriage, in order to explicate how they have taken or resisted opportunities to reconsider the position of women in their societies. How have the `ulama negotiated the perceived constraints of their tradition and of customary norms, as well as other imperatives of their particular social, political, and religious contexts, in thinking about the position and rights of women? As will be observed, not a few among them are sensitive to the criticism directed at them, and at their religious tradition,

¹ As will be seen in what follows, customary norms refer to practices that are part of a community’s local traditions. At times, they are thought to be sanctioned by the shari`a; at others, they are practiced despite the recognition that they contravene particular shari`a rulings. Muslim jurists themselves have had a mixed view of custom. Even as they have sought to curtail the scope of customary practice in terms of the shari`a, they have sometimes also modified shari`a rulings in light of customary norms.

² For instance, Norman Anderson, *Law Reform in the Muslim World* (London: Athlone Press, 1976); Abdullahi A. an-Na`im, *Islamic Family Law in a Changing World: A Global Resource Book* (London: Zed Books, 2002); Hallaq, *Shari`a*, 450–73.

on this score. How have such sensitivities shaped their discourses? How do the more conservative `ulama compare with those who are willing to break – and eager to be seen as breaking – with the inherited tradition on particular issues? How does the reformist language of those who do employ it in various contexts compare with the substance of their reformist concerns? What, finally, are some of the tensions and contradictions in the `ulama's discourses on the legal norms relevant to this discussion? These are the sorts of questions this chapter will be concerned with.

DEOBANDI AMBIGUITIES

Scarcely a week passes without the Pakistani press reporting on incidents of violence against women in the name of honor, customary norms, and sometimes also the shari`a. Honor crimes are a widespread phenomenon in many Muslim societies, though they are not limited to Muslims. Pakistan is, however, among the countries with the highest incidence of such crimes.³ In the rural areas of the country, women, and men, accused of sexual impropriety are routinely murdered by their kinsmen to restore the honor of the family and the clan. In many cases, such crimes – often referred to as *karo-kari* – have been committed because the perpetrators “could not stand people's taunts.”⁴ In not a few instances, they are sanctioned by local village councils and endorsed by leading figures of the area.⁵ Couples who elope have often been hunted down by their relatives, and on occasion, family members of the man with whom a woman has some alleged involvement have been subjected to violence and public humiliation.⁶ In many other cases, merely the suspicion that unrelated men and women have come into unsupervised contact with each other is deemed sufficient reason to inflict the most brutal punishments on them.⁷

Young girls have also been given in marriage to a rival family as part of settlements whereby the receiving family forgives the murder of a kinsman by a member of the girls' family.⁸ Often known as *vani*, this is a well-established custom in many parts of rural Pakistan and Afghanistan, and local politicians and other notables

³ See Robert Fisk, “The Crime Wave that Shames the World,” *The Independent* (London), September 7, 2010. For Fisk's investigative reporting on such crimes in Turkey, Jordan, Gaza and the West Bank, and Egypt, see *idem*, “One Woman's Nightmare, and a Crime Against Humanity,” in *ibid.*, September 7, 2010; *idem*, “Relatives with Blood on their Hands,” *ibid.*, September 8, 2010; *idem*, “The Lie Behind Mass ‘Suicides’ of Egypt's Young Women,” *ibid.*, September 9, 2010.

⁴ “Son-in-law Guns Down Gang-rape Victim for Honour,” *Dawn*, July 24, 2010.

⁵ M. B. Kalhor, “Jirga Labels Underage Boy, Minor Girl *Karo-kari*,” *Dawn*, June 13, 2010; Ahmed Hassan, “Uproar in Senate over Burying of Women Alive,” *Dawn*, September 2, 2008; Saleem Shahid, “Jirga Ordered Killing of Two Women,” *Dawn*, September 18, 2008.

⁶ “Three Killed in Name of Honour,” *Dawn*, June 23, 2010; Malik Tahseen Raza, “Woman and Daughter Stripped, Thrashed,” *Dawn*, July 5, 2010.

⁷ “Girl's Body Torched: Man Kills Wife, Two Daughters for ‘Honour’,” *Dawn*, May 7, 2010.

⁸ “Girls and Gold Save Four from Gallows,” *Dawn*, July 24, 2002; Nasir Iqbal, “[S]upreme C[ourt] Orders Arrest of Jirga Members: Handing over of Minor Girls to Victim's Family,” *Dawn*, August 16, 2007.

have sometimes not merely condoned but presided over such modes of dispute resolution. It is not just bodily harm that the practice of *vani* seeks to settle, however. A variety of other grievances can also be resolved in this way; for instance, it has provided a means of punishing the family of a man who marries a woman against her family's wishes.⁹

Quite apart from the settlement of disputes, women have sometimes been sold into marriage by family members. The following slightly convoluted news item is illustrative of such practices and deserves to be quoted in full:

Sukkur [Sindh], July 31 [2010]: A woman who had been sold into marriage by [her] parents landed into police custody after she raised a hue and cry in a bazaar of Daharki on Saturday. Her husband was also arrested. According to police sources, Roshna, daughter of Abdul Karim Mashori, was married to Zareef Jhalan four months ago for money. . . . She and Zareef had come to Daharki on a motorcycle for a medical checkup. When they reached near the police station, she started screaming for help. People caught her husband and handed over the couple to police. She told police that Zareef was not her husband; he had kidnapped her and that she wanted to go to her parents. . . . According to informed sources, three years ago, Roshna had eloped with her cousin Ali Asghar Mashori and they married. Their free-will marriage had sparked anger among her relatives and the couple moved to Kandhkot for fear of being killed. But the relatives managed to bring the couple back to Hayat Pitafi where Ali Asghar Mashori divorced Roshna under pressure of the elders. Roshna again fled, appeared before the court and gave [a] statement against her parents. The court sent her to the Darul Aman [a shelter for homeless women] of Sukkur where she lived for about two years. Later her parents brought her back and married her to Zareef Jhalan in exchange for Rs 200,000. But she was not happy with him and wanted to remarry Ali Asghar Mashori, the sources said.¹⁰

How do the *`ulama* respond to the sort of incidents sampled here? Leading *`ulama* rarely offer public commentary on such day-to-day incidents, which can easily create the impression that they are indifferent to them or even that they condone them. This impression is reinforced by the fact that it is lower-level religious functionaries, for instance, the imams at local mosques, who typically marry off young girls in cases of *vani*.¹¹ Our initial suspicions may be simplistic, however. For, as it turns out, the *`ulama* do concern themselves with such matters when they are brought to their attention in the form of juridical queries.

⁹ Usman Manzoor, "Two Girls Fall Prey to 'Vani' in Abbottabad," *The News* (Islamabad), February 7, 2009.

¹⁰ "Woman Sold into Marriage Draws Police Attention," *Dawn*, August 1, 2010. For another instance, see *Dawn*, December 12, 2009 ("Court Orders Child-marriage Victim to be Handed Over to Missing Mother")

¹¹ "Prayer Leader, Five Others Booked in Vani Case," *Dawn*, July 19, 2010; "Six Jirga Members, Cleric Held in Vani Case," *Dawn*, December 26, 2009; "Child Marriage Victim Handed Over to Grandmother," *Dawn*, December 13, 2009; Manzoor, "Two Girls." Also see *Dawn*, "Girls and Gold."

Although the incidents I have briefly mentioned are drawn from recent years, they are hardly new to the rural and tribal landscape in South Asia, Afghanistan, and indeed, parts of the Arab world. And muftis have long engaged with them. For instance, `Aziz al-Rahman `Uthmani (d. 1928), who served as the head of Deoband's fatwa department for more than three decades after its inception in 1892,¹² was emphatic in condemning the sale and purchase of women in marriage.¹³ The mufti also made it clear that any payment that the groom was required to make to the bride's family as the condition for marriage was illegal and amounted to bribery.¹⁴ Islamic law does, of course, require the payment of the *mahr*, an agreed upon amount payable by the groom to the bride before the consummation of marriage or, if so agreed, at a later date. The payment of the *mahr* is a crucial part of the marriage contract, and the money paid or promised belongs, in principle, to the bride rather than to her family or to anyone else. But customary practices have sometimes also dictated additional payments by the groom to the bride's father or other kin, and it is such practices that the muftis have condemned as bribery. In their fatwas, the `ulama have also denounced the practice of *vani* and related customs.¹⁵ They have likewise condemned the killing of women who elope¹⁶ and of those who have become pregnant as a result of an extramarital relationship.¹⁷

Yet the `ulama's positions on customary practices are considerably less clear-cut than some of their fatwas would suggest. In a juridical opinion prompted by proposed legislation on honor crimes during the regime of President Pervez Musharraf (r. 1999–2008), a mufti associated with the Dar al-`Ulum Haqqaniyya

¹² See the preface by Qari Muhammad Tayyib to `Aziz al-Rahman `Uthmani, *Fatawa Dar al-`Ulum Deoband*, ed. Muhammad Zafir al-din Miftahi, 12 vols. (Akora Khattak: Faruqi kutub khana, 2007; first published 1962–72 [hereafter *Fatawa Dar al-Ulum*]), 1: 31–48, at 33. Nearly three-quarters of a century after his death, `Uthmani's fatwas still represent the closest thing to Deoband's "official" position, and this, indeed, is how his fatwas have been presented – as the fatwas of the Dar al-`Ulum. After a long hiatus, new volumes of his fatwas began to be published in 2009. Three had been published by March 2010, with others forthcoming. See *Fatawa Dar al-`Ulum Deoband*, vols. 13–15, ed. Muhammad Amin Palanpuri (Deoband: Maktaba-i Dar al-`Ulum, 2009–10). For a biography of `Uthmani, see Fudayl al-Rahman `Uthmani, *Mufti `Aziz al-Rahman `Uthmani* (Malir Kotla: Jami`a Dar al-Salam, 1991).

¹³ *Fatawa Dar al-`Ulum*, 8: 92 (#1025). The mufti characterizes such sale and purchase as "forbidden and invalid" (*haram awr batil*).

¹⁴ *Ibid.*, 8: 189 (#1236), 260–1 (#1422). Also see Burhan al-din Sanbhali, *Mu`asharati masa'il din-i fitrat ki rawshani main*, 6th ed. (Lucknow: Majlis-i tahqiqat wa nashriyyat-i Islam, 2009), 76–7. The first edition of this book was published in 1975 (Lucknow: Majlis-i tahqiqat wa nashriyyat-i Islam). All references are to the 2009 edition, unless otherwise noted.

¹⁵ `Abd al-Haqq et al., *Fatawa Haqqaniyya*, ed. Mukhtar Allah Haqqani, 6 vols. (Akora Khattak: Jami`a Haqqaniyya, 2002), 4: 391. This is a collection of fatwas issued by muftis associated with Dar al-`Ulum Haqqaniyya of Akora Khattak in the Khyber Pakhtunkhwa province. This madrasa is best known for the fact that a number of those who later emerged as leaders of the Taliban had studied here. Also see Muhammad Ya`qub Sharudi, *Husaynat al-fatawa* (Quetta: Jami`a Rashidiyya, 2002), 339. Sharudi, a scholar based in Quetta in Balochistan, is a graduate of the Dar al-`Ulum of Deoband and a student of Husayn Ahmad Madani. He is the founder of the Jami`a Rashidiyya madrasa in Quetta.

¹⁶ Sharudi, *Husaynat al-fatawa*, 648.

¹⁷ *Fatawa Dar al-`Ulum*, 12: 114 (*Kitab al-qisas wa'l-hudud: Ahkam-i zina*). Also see *ibid.*, 12: 124–5.

of Akora Khattak in Khyber Pakhtunkhwa argues, for instance, that it is legitimate for a person to kill a Muslim man and woman if he finds them engaging in unlawful sexual intercourse. If the father kills his son or daughter in flagrante delicto, he owes no compensation for the murder, although compensation would be due if he murdered them at a later stage.¹⁸ The mufti, Ghulam Qadir Nu`mani, cites hadith and earlier Hanafi jurists in support of his position, but he also observes with evident approval that killing for honor is “among the most important of issues in the lands of the Pashtuns . . . and a frequently occurring one.”¹⁹ On such questions of honor at least, little conflict is seen between custom and the shari`a.

Even if a crime involving honor is not condoned, a mufti’s failure to explicitly condemn it may very well serve as a justification for it. Consider the following query sent to the aforementioned Mufti `Aziz al-Rahman:

Zayd went to court to seek support for his claim that he was legally married to Hinda, but the court did not find proof of his claim. He appealed [the court’s decision] but it was rejected. He went to court a third time, but his appeal was again dismissed. In the aftermath of these three attempts [by Zayd], Hinda’s relatives married her to Bakr. The day before this wedding, Zayd, together with two or three accomplices, cut off the noses of Hinda, her sister, and her father. Zayd and others were prosecuted [for this crime] and sentenced. In appealing the sentence, Zayd explained that he had committed this crime of honor (*ghayrat*) since he was legally married to Hinda but had been deprived of his rightful claim to her. The appellate court reviewed the documentation and, after further investigation, ruled on the validity of [Zayd’s] marriage. Now Hinda is at Bakr’s home and she is the mother of two or three children. What is the [mufti’s] ruling about her and the children?

The mufti cites the relevant passages from Hanafi sources, and he adduces a well-known hadith which stipulates that “the child belongs to the marriage bed,” which is usually understood to mean that the child is the husband’s unless he specifically denies paternity.²⁰ In light of his understanding of these texts, he responds:

Since Hinda was married to Zayd, her nikah to Bakr is invalid (*batal*). Therefore the children cannot be ascribed to the second husband [i.e., Bakr]. . . . But this is so only if Bakr had known that Hinda was Zayd’s lawfully wedded wife. If, however, he had not known this – that is, he had married [Hinda] in view of the lack of proof of Zayd’s lawful marriage and it was only later that Zayd’s having married [Hinda] was established – then the woman is to go back to the first husband, i.e., Zayd, while the children are to be considered Bakr’s.²¹

¹⁸ Ghulam Qadir Nu`mani, *Maqalat-i Nu`mani*. Translated into Urdu by Muhammad Idris Qasimi (Hangu: Ghazi Khan Bangash, 2006), 141–55.

¹⁹ *Ibid.*, 143.

²⁰ For references to this hadith in major Sunni collections, see A. J. Wensinck et al., *Concordance et indices de la tradition musulmane*. 8 vol. (Leiden: Brill, 1936–88), 5: 109.

²¹ *Fatawa Dar al-`Ulum*, 11: 42–3 (#1214). Hinda, Zayd, and Bakr are, of course, fictive names, very much like Tom, Dick, and Harry. The original fatwa may or may not have used the actual names of the people involved.

Perhaps the most remarkable thing about this harrowing fatwa is the failure of the mufti to comment on the honor crime that Zayd had committed on the eve of Hinda's wedding to Bakr. The mufti would presumably have replied that he was not being asked in this query about the permissibility of that act, for which, in any case, Zayd had faced prosecution. The mufti could also say that instances of custom-based crimes against women had been adequately condemned elsewhere in Deobandi fatwas. The fact that he so conspicuously fails to notice this instance of violence could nonetheless suggest to some readers of this fatwa that such violence is a natural and excusable expression of a man's frustration at being deprived of his lawfully wedded wife. Indeed, that is precisely what Zayd himself had said in court.

There are ambiguities in the muftis' condemnation of practices like *vani*, too. Hanafi law does, after all, allow a father to marry off his underage daughter without seeking her consent. (We will examine debates on the kind of authority the legal guardians of an adult woman have to approve or disapprove of her marriage, as well as the question of forcing a woman into marriage, in the next section.) A girl given in marriage to settle a dispute would therefore be validly married even though such modes of dispute resolution are clearly recognized as illegitimate.²² Likewise, while the practice of selling a girl into marriage is clearly condemned, the marriage contract would be valid if an underage girl has been given into this marriage by her father or if the adult woman has somehow been made to "consent" to it.

The Mufti's Agency?

Although many Hanafi muftis of South Asia would insist that they are constrained by their legal tradition, it is not easy to predict how even a taqlid-bound jurist would act on the issues before him. Muftis have long had ways of averting the stigma – and the severe consequences – of alleged sexual misconduct, and they have continued to utilize them into modern times. Influential twentieth-century Hanafi muftis continued to follow their school doctrine in arguing, for instance, that a child born within two years of a husband's death or of a woman's divorce was legitimate and that it was to be ascribed to that husband.²³ A mufti could also suggest, as did Ashraf `Ali Thanawi (d. 1943), that a child born to a woman whose husband had been away for years was legitimate, for it was conceivable, he said, that the husband had visited his wife without having been seen by anyone and, indeed, that he had been transported miraculously to his wife by a saint or a

²² Sharudi, *Husaynat al-fatawa*, 339.

²³ *Fatawa Dar al-`Ulum*, 11: 29 (31179). This represents the standard Hanafi view on the maximum period of gestation. Other Sunni schools of law – the Malikis, Shafi'is, and Hanbalis – held the maximum gestation period to be four years. See Zafar Ahmad `Uthmani and `Abd al-Karim Gumthallawi, *Imdad al-ahkam*, 4 vols. (Karachi: Maktaba-i Dar al-`Ulum, 2004–7), 2: 840.

jinn.²⁴ As a Sufi master, for whom miraculous deeds were uncontroversial matters, Thanawi would not have had to give excessively free rein to his imagination to make such a supposition. Even he acknowledged its improbability, however, all while arguing that “labeling a married woman an adulteress was not right in the presence of the possibility [of contact with her faraway husband], however remote that possibility might be.”²⁵ Such fatwas were plainly intended, then, to provide some protection for women accused of sexual impropriety and a cover of legitimacy for their children, who might otherwise be ostracized in their communities. Yet already in Thanawi’s lifetime, some people were sufficiently perturbed by his views on this score to wonder if he had been misunderstood.²⁶ And despite his still considerable stature, such fatwas are likely to be taken less seriously than they may have been in his age. Put another way, contemporary muftis are unlikely to adduce similar arguments in queries about sexual impropriety and paternity. In such instances, the impact of modern education may ironically have constrained the mufti’s choices and, by the same token, made people vulnerable to harsher verdicts of immorality with all that that might entail.

The mufti’s social setting also has some role in shaping his discourses, of course, though precisely how social context factors into his decisions and interacts with his fidelity to the tradition is again difficult to predict. A mufti catering to the tribesmen of the north-west frontier – now Khyber Pakhtunkhwa – or Baluchistan would presumably be more likely to justify honor-based killings than muftis elsewhere. It would be hard to find parallels to Ghulam Qadir Nu`mani’s aforementioned endorsement of such practices in, say, the fatwas issued from the madrasa in Deoband. And the Sufi-inflected fatwas of Thanawi may arguably also reflect this difference of locale – a harsh milieu suffused with Pashtun tribal norms versus an untroubled life in a center of north Indian Muslim culture. Yet this difference should not be exaggerated. For even `Aziz al-Rahman `Uthmani, the first mufti of Deoband, had failed to comment on “Zayd’s” cutting off the noses of his putative wife, her father, and her sister in the name of honor. Conversely, even muftis at the Haqqaniyya madrasa in the Frontier province have sometimes taken unexpected positions. Condemning the practice of *vani* (known as *swara* among the Pashtuns), a mufti notes that the underage girl given in marriage as part of a dispute resolution has the right to revoke this marriage upon coming of age.²⁷ Hanafi law gives that right to the underage girl only if she had been married off by someone *other* than her father or grandfather, or if the latter were people of wicked character

²⁴ Thanawi, *Imdad al-fatawa*, 2: 516–20 (#617–18). The husband in such circumstances *can* disown the child, but that requires a formal oath (*li`an*) on his part, which also serves to dissolve his marriage.

²⁵ *Ibid.*, 2: 519. Cf. *Fatawa Haqqaniyya*, 4: 574, where the view is expressed that a child born fourteen or fifteen years after a husband’s disappearance would nonetheless be ascribed to him. In this instance, however, the mufti makes no effort to invoke any supernatural possibilities to explain his view. No date is given for this fatwa, but internal evidence suggests that it was issued ca. 1985–6.

²⁶ Thanawi, *Imdad al-fatawa*, 2: 516, 518.

²⁷ *Fatawa Haqqaniyya*, 4: 391.

and ill-repute, “well-known for making poor choices.”²⁸ The medieval jurists held that, for such ill-repute to be ascertainable, the father or the grandfather should already have acted irresponsibly in relation to the marriage of one of his wards, which would provide the basis on which to prevent him from acting in this manner again. Some Deobandi muftis were plainly skeptical of this requirement,²⁹ which meant, of course, that one daughter had to be sacrificed to establishing a guardian’s ill-repute. The aforementioned fatwa from the Haqqaniyya madrasa also implies – without, however, articulating it explicitly – that the very fact of giving a girl in marriage in this manner constitutes the guardian’s wickedness of character, which would allow the girl to subsequently revoke her marriage.³⁰

Though they would not necessarily put it this way, religious scholars often do have some degree of choice in what positions to endorse or contest, what to comment on or ignore.³¹ In modern South Asia, the classic instance of such agency, but also of the constraints on it, is Thanawi’s initiative on the dissolution of the marriage of a woman whose husband had disappeared. As seen in [Chapter 3](#), Thanawi and his associates drew on Maliki law to argue that such a woman could have her marriage dissolved within four years of her husband’s disappearance and that, in the absence of shari`a-based judges, a locally constituted council of righteous men could decree an end to this marriage. Thanawi also drew on certain hitherto marginal views within the Hanafi legal school to prevent the dissolution of marriage on grounds of apostasy alone. The positions that Thanawi endorsed in his treatise, *The Consummate Stratagem for the Helpless Wife*, were neither new nor previously unknown. Other scholars had long argued that the norms of another school of law could be followed in cases of extreme need. And some earlier muftis had specifically allowed resorting to the relevant Maliki rulings. Years before the publication of Thanawi’s treatise, some lower-ranking scholars had been sending him queries about the permissibility of adopting the Maliki position.³² In one

²⁸ Ibn `Abidin, *Radd al-muhtar*, 4: 171–2. Cf. Ron Shaham, *Family and the Courts in Modern Egypt: A Study Based on Decisions by the Shari`a Courts 1900–1955* (Leiden: Brill, 1997), 44.

²⁹ Kifayat Allah, *Kifayat al-mufti*, ed. Hafiz al-Rahman Wasif, 9 vols. (Delhi: Hafiz al-Rahman Wasif, 1971–7), 5: 72–3.

³⁰ *Fatawa Haqqaniyya*, 4: 391. As is usual in this collection of fatwas, neither the mufti’s name nor the date on which the fatwa was issued is given. As Sana Haroon observes in speaking of the authority of the religious functionaries in the tribal areas of the north-west frontier in the late nineteenth and early twentieth centuries, the “tussles between religious and cultural interpreters could go either way, depending on the resources and persuasiveness of the particular *mulla* involved and there were instances where clans entirely rejected the directives of *mullas*. But it is incorrect to extrapolate that in such situations Islam retreated from the mainframe of society In situations where their directives were contested, the *mullas*, like all other groups in the Tribal Areas, fought fiercely to protect their interests – sometimes succeeding and sometimes failing.” Sana Haroon, *Frontier of Faith: Islam in the Indo-Afghan Borderland* (New York: Columbia University Press, 2007), 69.

³¹ For theoretical reflections on how to think of agency in relation to tradition, see Mark Bevir, *The Logic of the History of Ideas* (Cambridge: Cambridge University Press, 1999), 188–9, 196ff. Bevir seems, however, to exaggerate the role of individual agency in modifying tradition.

³² *Imdad al-fatawa*, 2: 374–6.

instance, a local scholar writing to him in 1907 had invoked a fatwa of the famed late nineteenth-century scholar `Abd al-Hayy Laknawi (d. 1886) to note that the companions of the Prophet had been split on the question of how soon after her husband's disappearance a woman could have her marriage dissolved. `Umar b. al-Khattab had adopted the view that a woman could remarry after four years, whereas `Ali b. Abi Talib had been of the view that she ought to wait till the expiry of the husband's natural lifespan. The Malikis had adopted the former view, and the Hanafis, the latter. In his fatwas, Laknawi himself had favored the Maliki position.³³ Thanawi, for his part, would long hold onto the stringent Hanafi view. As he put it in one undated but clearly early fatwa, "though some `ulama have permitted acting according to the opinion of Shafi'i and Malik, in my experience there is much corruption (*fasad*) in abandoning the position of Abu Hanifa. Therefore, in my view, it is not permissible [for the woman] to remarry before the appointed time [that is, before the expiry of the missing husband's natural lifespan]."³⁴

It is tempting but probably simplistic to suppose that `ulama like Thanawi were just indifferent to the plight of the destitute women caught in the impossible situation of waiting endlessly for their missing husbands or to the danger, as the queries addressed to him sometimes warned, that a young woman would be compelled to fulfill her sexual needs in a religiously unacceptable way. The mufti's fidelity to his Hanafi school meant that the authority of this legal tradition came first, even at the cost of great individual suffering. By the late 1920s, however, the point was being reached at which the authority or at least the reputation of the legal tradition was in some peril. The apostasy of a number of Muslim women as a way of getting out of their intolerable marriages threatened the boundaries of the community, but it was also bringing bad press to Hanafi norms, to the `ulama, and as Thanawi hints in the preface to his treatise, to Islam itself.³⁵ Significantly, as Thanawi also notes, some people had been following the relevant Maliki norms on their own, but they were doing so in ill-informed ways. Some Muslim princely states had also instituted laws in accordance with those norms. But this, too, he says, had not been done in the right way.³⁶ Thanawi is clearly referring here to an official contemporary initiative in the Muslim-governed state of Bhopal to institute laws relating to divorce in light, inter alia, of Maliki norms. One of the laws stipulated that in case the wife of a missing husband did not have any means to provide for herself, her marriage could be dissolved within *three months* of the husband's disappearance. In case she did have means of material support,

³³ Ibid., 2: 362–9 (#357). Thanawi's response to this query is dated July 7, 1907. For `Abd al-Hayy Laknawi's fatwas on this issue, see `Abd al-Hayy (Laknawi), *Majmu`a-i fatawa-i Mawlana `Abd al-Hayy*, translated into Urdu by Khurshid `Alam (Karachi: Qur'an mahall, 1964), 283–4. (This edition is a rearranged version of Laknawi's three-volume collection, *Majmu`at al-fatawa*, first published in 1887. Most of the fatwas in the original collection were in Arabic and Persian.)

³⁴ *Imdad al-fatawa*, 2: 370.

³⁵ Thanawi, *al-Hila al-najiza*, 26–8.

³⁶ Ibid., 30.

her marriage would be terminated four years after the husband's disappearance.³⁷ Such legislation suggested to Thanawi that, far from sticking to Hanafi rules, people were adapting even Maliki law in ways that would have adverse implications for the authority of the shari'a in general.

These were thus serious pressures to rethink facets of the law, and to take the initiative in doing so lest it be wrested from the `ulama altogether. Yet the motivation to stand firm in defense of a long-standing tradition was no doubt also strong, and there is nothing inevitable about the fact that Thanawi chose to take this initiative. He had resisted for many years the pressure to draw on Maliki norms and he could conceivably have kept up this resistance. That he did eventually make a different choice suggests that a mufti, even when constrained by the legal tradition, did have the room to do so as well as the resources in terms of which to justify it. Other muftis sometimes made quite different choices. In striking contrast to Thanawi's fatwas – which stipulated that even if one followed the Maliki norm on how long to wait for the missing husband, such a marriage could not be ended without a qadi – the fatwas of `Abd al-Hayy Laknawi made no mention of the need for a qadi.³⁸ Thanawi himself would come round to a modified version of that view in stipulating that a committee of righteous men could stand in for the qadi. Yet in making his distinctly bolder choices, even Laknawi would not have seen himself as being untrue to the Hanafi tradition. The author of a frequently cited biographical dictionary of Hanafi jurists as well as numerous other works, he continues to be recognized as one of the most eminent Hanafi scholars of the modern age.

Low-ranking local imams and scholars, too, have had some space for maneuverability in deciding how to align themselves with a particular norm or what position from their legal tradition, or from the opinions of more eminent scholars, to invoke, endorse, or sidestep. It is queries from such usually unnamed scholars that had been building pressure on Thanawi, for instance, to change course. Needless to say, it is not easy for a local imam, often low in the socioeconomic hierarchy, to stand up to powerful notables intent on upholding local custom, let alone to question influential scholars speaking elsewhere in the name of the shari'a. Nor is it clear that the local religious functionary is himself always opposed to particular practices, whether justified by shari'a or custom. Nonetheless, in contemporary Pakistan, if some local religious functionaries have solemnized

³⁷ For a summary of these provisions, see Sabah al-din `Abd al-Rahman's preface to Sayyid Sulayman Nadwi, *Bahadur khawatin-i Islam* (A`zamgarh: Dar al-musannifin, n.d.), 1–40, at 28–9. The preface is dated 1986. Bhopal was unusual among Indian princely states in having been ruled for long by women. Although the legislation in question took place during the reign of Hamidullah Khan, who became nawab of Bhopal in 1926, the state had been ruled by women for almost a century before him. (Siobhan Lambert-Hurley, *Muslim Women, Reform and Princely Patronage: Nawab Sultan Jahan Begam of Bhopal* [London: Routledge, 2007], 71.) This fact may have played some role in facilitating this legislation. Cf. *ibid.*, 173–5.

³⁸ `Abd al-Hayy (Laknawi), *Fatawa*, 283–4.

vani-based marriages, others have helped terminate them as well.³⁹ The choice in question need not be based on a creative reading of the relevant texts. It could simply be a matter of opportunity, of political expediency, of avoiding bad press for the local community, and of course, of the desire to do the right thing. Precisely what the right thing is can vary a good deal from one person to another, however.

The Contradictions of the State

How does the state factor into the sort of cases we have been reviewing so far? As some of these instances would suggest, the state is far from ubiquitous in the moral universe of the `ulama. Yet its perceived distance has defined their discourses no less than its immediate presence or, for that matter, its contradictions. Much like his contemporary Thanawi, `Aziz al-Rahman, the first mufti of Deoband, was acutely aware of what the absence of an Islamic government meant for the practice of Islamic law. He repeatedly reminded his questioners that Islamic criminal law was not in effect in British India, which meant that the punishments mandated by the shari`a could not be administered. It also meant that Muslims should not take matters into their own hands, for the authority to impose the hudud – for instance, the shari`a punishments for unlawful sexual intercourse – belonged to the Muslim ruler, who was now absent in British India. It sufficed for the person who had committed adultery to repent for, as a hadith had it, “a person who repents of a sin is like one who hasn’t committed it.”⁴⁰ Less reassuringly, the mufti prescribes the same course for a person who did take matters into his own hands and killed his wife on grounds of adultery: there was nothing more that he could do than repent and pray for the murdered woman’s salvation and forgiveness.⁴¹ There is no suggestion, for instance, that the murderer should turn himself over to the colonial justice system, for that system is not based on Islamic law. The implicit point is neither to condone murder nor to encourage his audience to violate colonial law; it is to try to find solutions to particular disputes and infractions outside the realm of the un-Islamic colonial courts. Given that many of the laws implemented in the Islamic Republic of Pakistan are not what the shari`a mandates, many `ulama have continued to have deep misgivings about the legitimacy of these laws. Some have also argued that people are forced to resort to customary norms, in matters involving honor crimes for instance, because the protections that the shari`a should have provided them are not in effect.⁴²

³⁹ Manzoor, “Two Girls.”

⁴⁰ *Fatawa Dar al-`Ulum*, 12: 122 (#33).

⁴¹ *Ibid.*, 12: 124–5 (#41).

⁴² See Hassan, “Uproar.” Cf. Zahid al-Rashidi, *Hudud Ordinance awr tahaffuz-i niswan bill* (Gujranwala: al-Shari`a Academy, 2007), 50–1.

But there are also instances in which the practice of customary norms is enabled by the state itself. In colonial Punjab, this took the form of the state's recognition of local custom – including the exclusion of women from inheritance – to consolidate the hold of a loyalist landed elite over agricultural holdings.⁴³ In Pakistan, the enactment of particular shari'a laws by governments keen to flaunt their Islamic commitments has sometimes reinforced customary practices more insidiously. For instance, the laws of retaliation and compensation for bodily harm (*qisas* and *diya*), promulgated in 1990, allow the private settlement of claims: a father can “forgive” his son for killing his sister; and a murderer would be freed if the victim's next of kin agreed to accept monetary compensation from him.⁴⁴ The practice of *vani* goes much further, of course, in stipulating not only the transfer of large sums of money to the aggrieved party but also an agreed upon number of girls. From the perspective both of the state and the `ulama, the transfer of girls in dispute settlement is illegal, but the rest of the transaction is entirely acceptable. It is not hard to see, however, that some `ulama would condone *all* aspects of *vani* in the larger interests – the common good – of the feuding families and of the local community. Much the same may be said of local notables as well as the local law enforcement officials, who have frequently been complicit in *vani* and even in honor killings. Yet the state also seeks, however inconsistently, to curb customary norms, arresting and prosecuting those charged with honor killings or with *vani*.⁴⁵ For such practices are not only a challenge to its authority; they also make for very bad publicity, both within and, in a globalized world, outside the country. The contradictory ways in which muftis and other `ulama have sometimes addressed issues relating to women, custom, and the law have had much to do with their local contexts, the scholarly tradition as they understand it, and their often unacknowledged sense of their own agency in handling the tradition's resources. But they also have to do with the ample contradictions of the state itself.

LEGAL GUARDIANS AND COERCED MARRIAGES

The postcolonial Indian political context is, of course, very different from Pakistan's. Instead of aspirations to see the shari'a implemented, a major concern of many `ulama is to prevent the dissolution of the laws of personal status into the uniform civil code that secular Indians and Hindu nationalists demand for all citizens of the country. As in colonial India, the Deobandi `ulama have continued to encourage fellow Muslims to try to settle their disputes out of Indian courts, and in many places they have established unofficial shari'a courts to this end. But

⁴³ See David Gilmartin, *Empire and Islam: Punjab and the Making of Pakistan* (Berkeley: University of California Press, 1988).

⁴⁴ See Tahir Wasti, *The Application of Criminal Law in Pakistan: Sharia in Practice* (Leiden: Brill, 2009).

⁴⁵ The Criminal Law (Amendment) Act of 2004 laid down severe penalties for many custom-based offenses, though honor crimes have continued to take place in different parts of the country.

there is little question of appearing to even silently condone, say, crimes of honor. There also is far greater recognition among many Indian `ulama than there seems to be among their peers in Pakistan that particular practices relating to women bring negative publicity. In India, such negative limelight would not only be bad in its own right, but it also threatens to grievously undermine the `ulama's case for the autonomy of their personal status laws. It is in part in this political context and in part in vague recognition of changing times that the Indian Fiqh Academy has revisited some long-standing norms of the Hanafi school of law.

In 1999, the Fiqh Academy devoted its seminar to the question of *wilayat-i nikah*, that is, the authority to give a woman in marriage. Among the questions on which the `ulama's response were sought was whether an adult and legally competent woman had the right to enter into a marriage on her own, even without the consent of the male guardian (*wali*), and whether and in what circumstances the wali had the right to have such a marriage annulled. Further, did the woman given into marriage by her wali have the right to get her marriage annulled in certain circumstances?⁴⁶

These are old questions in Islamic law, as a glance at the chapters on marriage in any premodern legal handbook will show. The contents of modern fatwa collections reveal that questions about marriage and divorce continue to occupy a large part of the mufti's attention, just as they have long concerned the qadis.⁴⁷ And matters relating to how and on whose authority the marriage contract is concluded continue to be of great import to ordinary men and women in many Muslim societies.

There is considerable disagreement among the four existing schools of Sunni law on whether an adult and legally competent woman (*`aqila baligha*) can contract her own marriage. (On the question of minors, jurists generally agree that the authority to give them into marriage belongs to their legal guardian, the wali, and that they do not need to be consulted before being married off.) Difference of opinion on this matter is also reported among the founding fathers of the Hanafi school itself. The most authoritative view (*zahir al-riwaya*), attributed to Abu Hanifa (d. 767) and to Abu Yusuf (d. 798), is that a marriage contracted by an adult woman is valid whether or not her male guardian has been part of the arrangement. And this contract would be valid irrespective of whether the woman is a virgin or has previously been married. A second view, attributed to Abu Yusuf, is that no marriage can be contracted without the presence of the woman's wali. The third view, attributed to Muhammad al-Shaybani (d. 805), is that the validity

⁴⁶ For the proceedings of this conference, see Mujahid al-Islam Qasimi, *Larke awr larkiyon ke nikah ka ikhtiyar: Wilayat-i nikah ka ta'aruf, uski hudud awr shar'i ahkam* (Karachi: Idarat al-Qur'an wa'l-`ulum al-Islamiyya, 2001), hereafter *Ikhtiyar*.

⁴⁷ On the Egyptian shari'a courts' handling of these issues in the first half of the twentieth century, see Shaham, *Family and the Courts*.

of the marriage contract remains conditional upon the wali's (eventually) agreeing to it.⁴⁸

A key consideration for the Hanafis in evaluating the validity of a marriage contract is *kafa'a* or socioeconomic compatibility. The perceived absence of *kafa'a* gives considerable power to the wali to have the marriage in question annulled – assuming, that is, that it can take place without him. Again, the more authoritative view is that if an adult woman marries on her own, the wali cannot challenge the validity of her marriage as long as the groom is her equal in socioeconomic standing. Should such compatibility be lacking, the wali has the right to have the marriage dissolved. A more stringent view, which became influential among latter-day Hanafis (*al-muta'akhhirun*), holds that a woman's marriage to anyone deemed socially incompatible with her is not a valid marriage to begin with, which is to say that it is void even without the wali having to formally challenge it.⁴⁹

Questions relating to guardianship in marriage are sensitive issues. As will be observed, those committed to the norms of their Hanafi school tend to see these questions as not just about women and guardianship but also the authority of their school tradition. Some of the sensitivity has to do as well with an evolving social context. Young women have come to be more educated than before, presumably better aware of their surroundings and the changes taking place in them, and considerably more likely to come into contact with unrelated men in and outside their neighborhoods. It is not hard to imagine that many among them would wish to have more choices than were available to their parents, let alone their grandparents. In this context, the Hanafi view that an adult and legally competent woman should be able to enter into a marriage contract on her own can go some way in enhancing women's agency. Yet it does not take much imagination to see that the implications of this Hanafi view would be profoundly unsettling for people in conservative social contexts and for not a few `ulama who are otherwise committed to the defense of their school's legal norms.

A wide range of views is represented in the published proceedings of the Indian Fiqh Academy on the nature and scope of legal guardianship in marriage. As Hanafis, most members of the Fiqh Academy agree that, in principle, an adult woman has the right to contract a marriage without her wali. But in several instances, they add moral strictures in the form of hadith reports that discourage women from doing so; and some hadith reports flatly assert that the marriage taking place without a wali is invalid.⁵⁰

⁴⁸ *Ikhtiyar*, 199.

⁴⁹ *Ibid.*, 258, citing (from a different edition), Ibn `Abidin, *Radd al-muhtar*, 4: 156–7; also see *ibid.*, 4: 179. For examples of Deobandi fatwas according to this more stringent view, see `Uthmani and Gumthallawi, *Imdad al-ahkam*, 2: 313–14 (#21); Muhammad Taqi `Uthmani, *Fatawa-i `Uthmani*, ed. Muhammad Zubayr Haqq Nawaz, 2 vols. (Karachi: Maktaba-i ma'arif al-Qur'an, 2006), 2: 284f (#263/19a).

⁵⁰ *Ikhtiyar*, 211f. See *Fatawa Haqqaniyya*, 4: 394, where the mufti acknowledges that adult men and women can marry of their own accord, without seeking the permission of the woman's legal

The real disagreement among scholars of the Fiqh Academy, however, concerns whether the wali can have a marriage annulled on grounds of social incompatibility. Most of the participants in the conference proceedings were of the view that the wali does have this right. The same view is endorsed in the academy's concluding recommendations.⁵¹ But there were important voices of dissent and these are duly included in the published proceedings. At least one scholar, Muhammad Thana al-Huda Qasimi of Bihar, in eastern India, argued against the view that a marriage contracted without the wali and outside the range of social compatibility was, ipso facto, null and void. He proposed following the previously dominant view (*zahir al-riwaya*) that such a marriage could be contested by the wali but that it was not automatically invalid. He continued:

In today's changing conditions – when the trend is growing to marry someone who would not be deemed socially compatible [by traditional standards] and without the permission or consent of the wali; when societal values are breaking down; when finding good mates within the ranks of the socially compatible has become a big problem; and when the curse of dowry has made the issue of social compatibility irrelevant even to the wali – it is better to issue fatwas on the previously dominant view as a way of safeguarding family life against anarchy. This, in fact, is already happening in practice.⁵²

On the face of it, this is not much of a concession to changing times. But the scholar's point is that the earlier legal norm at least allowed a socially incompatible marriage to be defended, with the possibility of being allowed to stand, rather than deemed invalid from the start. The implication is that to allow it to stand until judicially overturned would save many a marriage and, by extension, allow women to contract such marriages. The argument also is that in making this adjustment, the jurists would not only be accommodating changing needs, but they would also be returning to an earlier, hence more authoritative, legal norm.

Arguing to similar effect, As'ad Allah Qasimi of Meerut, in Uttar Pradesh, contended that the medieval jurists explained the wali's authority to have a socially incompatible union annulled "as a way of removing the injury of shame (*'ar*)." ⁵³ Conversely, when a woman marries without the wali but within socially compatible circles, the jurists stipulate that her marriage is to be accepted. This means, Qasimi argued, that if a woman elopes with someone who is her equal in social standing, her marriage is to be deemed valid according to Hanafi norms. Yet, he noted, such an

guardian. But he adds, "In view of the delicate conditions in the present age, seeking the legal guardian's permission is a way of preventing moral temptation and depravity." Also cf. Shafi', *Imdad al-muftin*, 440, 444; and Hallaq, *Shari'a*, 276.

⁵¹ *Ikhtiyar*, 11.

⁵² *Ibid.*, 258.

⁵³ *Ibid.*, 260, citing Burhan al-din al-Marghinani, *al-Hidaya sharh Bidayat al-mubtadi*, ed. Muhammad Muhammad Tamir and Hafiz`Ashur Hafiz, 4 vols. (Cairo: Dar al-salam, 2000), 2: 484 (I use a different edition of *al-Hidaya* than that referred to by Qasimi).

action would bring even greater shame to her family. Qasimi's recommendation was not, of course, that eloping with a socially compatible man should also be grounds for an invalid marriage but rather that marrying a socially inferior man should no longer be seen as shameful and, therefore, as grounds for the dissolution of that union. In not a few cases, he observed, the unhappy woman, forcibly separated from her husband, takes her own life: "In such circumstances, should one attend to the person's life or to the right to dissolve the marriage?"⁵⁴ He went on to cite the view, endorsed by Shah Isma'il (d. 1831), a grandson of Shah Wali Allah, that a woman's marriage cannot be challenged by the wali even when she has contracted it on her own and outside the circle of social compatibility.⁵⁵



TWO YEARS AFTER IT HAD DELIBERATED ON THE SCOPE OF THE LEGAL guardian's authority in marriage, the Fiqh Academy took up the question of whether a marriage was valid if a woman had been coerced into it. The traditional view is that, whereas the legal guardian need not ask for the permission or the consent of a minor before giving her (or him) into marriage, it is necessary for an adult woman – whether a virgin or one previously married – to indicate her consent. This position is, however, in striking tension with the standard Hanafi view that the marriage of a person who has been coerced into it remains valid. The obvious contradiction is resolved by assuming, counterintuitively, that a coerced "consent" still counts as consent. Questions relating to coerced marriages were sent to the Fiqh Academy by members of the expatriate South Asian community living in Britain, and the academy deliberated upon them in April 2001. The key issues on the table were whether a marriage that a woman had been forced to consent to was valid and whether she had the right to subsequently have it annulled by a shari`a council or other Islamic forums acting as a stand-in for a shari`a judge.⁵⁶

Three things should be noted by way of context here. First, as is well known, Britain has a large population of South Asian immigrants, many of whom have maintained close ties with their extended families in the Indian subcontinent. Young women in this diasporic community have sometimes been under considerable pressure to marry a male relative living in South Asia. As the preface to the questions sent to the Fiqh Academy noted, women have sometimes been taken

⁵⁴ *Ikhtiyar*, 260.

⁵⁵ *Ibid.*, 261. In a short tract on the question of kafa'a, a scholar named Mujib Allah Nadwi has also argued that socioeconomic status should not determine the validity of the marriage. The only thing that counts, he argues in favoring the Maliki view on the question, is sound belief and piety. See Mujib Allah Nadwi, *Mas'ala-i kafa`at* (Lahore: Markaz-i tahqiq, Dayal Singh Trust Library, n.d. [1984]).

⁵⁶ Islamic Fiqh Academy, *Jabri shadi ka shar`i hukm* (Delhi: IFA Publications, 2004). This work is also available in an Arabic version: *al-Ijbar `ala'l-zawaj* (Delhi: Majma' al-fiqh al-Islami [al-Hind], 2nd ed., 2007). My references are to the Urdu edition.

to India and Pakistan under the pretext of sightseeing and then forced, through physical violence or threats of “destroying her passport and . . . depriving her of British citizenship,” to get married there.⁵⁷ Second, shari`a councils exist in Britain to minister to the needs of those who would bring their problems to them, and they have claimed the authority to rule on matters of personal status much like a shari`a judge would. The third thing is to remind ourselves of the Hanafi rule that while a woman, married off as a minor, has the right to have her marriage revoked on coming of age, she does not have any such right if the legal guardian who had given her in marriage was her father or grandfather. Even a qadi or an institution officiating as such cannot usually annul such a marriage without very good reason.

As is common at the workshops of the Fiqh Academy, there was considerable disagreement on the question of coerced marriage and its dissolution. Among those taking the most uncompromising position was Burhan al-din Sanbhali, a Deoband-educated professor of Qur`anic exegesis, hadith, and law at the Nadwat al-`Ulama in Lucknow. He is also the vice president of the Fiqh Academy and president of the qadi council of Uttar Pradesh.⁵⁸ Sanbhali reiterated the Hanafi view that a minor, married off by her father or grandfather, did not have the right to have her marriage annulled when she came of age. And the marriage of an adult who gave her consent to it was valid, he said, even if the consent was given under coercion (*jabr*); she had no right to have this marriage dissolved. He continued:

This is what the affection of the father and the grandfather demands [namely that their decision be binding]; this is why the shari`a has given them the authority to decide for the future of their children as they see fit, even if boys and girls do not like it on account of their inexperience, emotionalism, sexual anarchy and waywardness. Those who know the conditions in Europe and America, the sexual freedom and the free mixing [of men and women there], can easily understand why parents prefer to marry their children, and especially their girls, in India and Pakistan rather than in Europe and America. . . . [For the parents] to take account of the [children’s] wishes is to themselves destroy their morals and their religion.⁵⁹

Consistently with this hard line, Sanbhali insisted that a qadi or a shari`a council did not have the authority to dissolve a marriage merely on grounds that a boy or a girl had been coerced into it.⁶⁰

⁵⁷ *Jabri shadi*, 12. On coerced marriages and related issues brought before contemporary British courts, see David Pearl and Werner Minski, *Muslim Family Law*, 3rd ed. (London: Sweet & Maxwell, 1998), 171–5.

⁵⁸ For a brief biographical sketch, see Sanbhali, *Mu`asharati masa’il*, 3–4.

⁵⁹ *Jabri shadi*, 33–4.

⁶⁰ *Ibid.*, 35. Sanbhali speaks of both men and women, but the issues under discussion relate primarily to the latter. According to the Hanafi legal norms, a man can divorce his wife at any time, without any specific reason or justification, and without needing anyone else’s permission.

A number of contributors to the Fiqh Academy proceedings shared Sanbhali's position.⁶¹ But again, there was strong dissent from many others. Although acknowledging that a marriage contract to which a woman had given her consent was *formally* valid even when she was coerced to do so, some scholars argued that marrying off a woman against her will was impermissible, that pressuring her to say "yes" to the marriage did not count as her consent, and that such a marriage could be voided (*faskh*) by a qadi (114–15; 136). Others argued, with greater logical consistency but in a clearer departure from the Hanafi norms, that because a forced agreement to marriage was no consent at all and Hanafi law required the woman's consent, a coerced marriage was not valid to begin with (99, 166–7, 174, 195–6). In a similar vein, Sultan Ahmad Islahi, a scholar educated at the Madrasat al-Islah in Uttar Pradesh and long associated with the Indian Jama'at-i Islami, wrote that an adult and legally competent woman had the right to reject a coerced marriage and to marry someone compatible with her of her own will. "It is necessary for the Muslim community," he continued, "to ensure the safeguarding of the common good (*masalih*) and to try to check misappropriation of the particulars of the law. In such situations, the shari'a courts, too, ought to come to the aid of oppressed women" (200).⁶²

As might be expected, almost everyone who criticized coercing women into marriage supported the idea that a shari'a court *could* annul it. Some of those who believed that a coerced marriage was invalid in the first place deemed recourse to the shari'a council unnecessary but approved of it nonetheless as a pro forma measure (167). In what is clearly an indication of the discomfort of some scholars both with a coerced marriage *and* with setting aside Hanafi norms which see such marriage as valid, it was also suggested that the judge or shari'a council could make the question of social compatibility the basis of annulling the marriage in question. In other words, while the marriage would, indeed, be annulled, the stated justification for doing so would be a perceived difference in social standing rather than "merely" the element of coercion (cf. 145).

The concluding declaration of the Fiqh Academy expresses clear opposition to coerced marriages even as it urges men and women to "give preference" to the spousal choices their legal guardians had made for them. The declaration also affirms that a qadi or a shari'a council has the authority to annul a marriage that the legal guardians of an adult woman had forced upon her (15–16).

Although addressed by the Fiqh Academy with reference to Muslims living in Britain, the question of coerced marriage has broad interest in South Asia and,

⁶¹ E.g., *Jabri shadi*, 49, 51, 57–64, 94–6, 216–17. Most subsequent references to the book will be in text.

⁶² The Madrasat al-Islah has long been associated with the Jama'at-i Islami. See Ahmad, *Islamism and Democracy*. For an overview of this madrasa from a Deobandi perspective, see the editor's note in *Maktubat-i shaykh al-Islam*, 2: 388–94n. On Sultan Ahmad Islahi, see also Irfan Ahmad, "Cracks in the 'Mightiest Fortress': Jamaat-e-Islami's Changing Discourse on Women," *Modern Asian Studies* 42 (2008): 549–75, esp. 561–4.

indeed, elsewhere. The manner in which the questions were framed by those who sent them to the academy suggests that they expected a firm rejection of coerced marriage, and this is what they got. As seen in previous chapters, the academy is deeply concerned with projecting an image of Islam that is tolerant, open to possibilities of change, and mindful of its adherents' evolving needs. Consequently, it is hard to imagine that it could have done anything other than criticize the practice of coerced marriage. Yet as the published proceedings of the 2001 session demonstrate, there continues to be considerable opposition to setting aside the norms that have long shaped the question under discussion, which means that it could not have been easy for the academy to adopt the position it did in the end.

Given the prominence of collective *ijtihad* in the discourses of the Fiqh Academy, one would have expected it to be invoked in the conference proceedings. That this was not the case merits comment here. As observed in [Chapter 3](#), the language of *ijtihad* serves not only to justify adjustments in the legal tradition but also to reclaim the *ʿulama*'s authority, against other religious intellectuals, to make such adjustments. Yet if the language of *ijtihad* helps reassert that authority and to open new spaces of debate, it also continually threatens, in a predominantly Hanafi land, to *derail* initiatives at reform by arousing fears that one might be going too far in setting aside long-established norms. Keeping the language of *ijtihad* muted in such instances may be a more effective way of making headway than deploying its rhetoric. And in any case, the disagreement on the issues under discussion was so intense that an explicit claim to collective *ijtihad* would have been out of place. Inasmuch as the concluding declaration of the Fiqh Academy sought to set aside particular Hanafi norms on the question under discussion, it did implicitly lay claim to a new *ijtihad*. But a full-throated appeal to it was evidently deemed counterproductive in this instance.

The idea of the common good is likewise barely heard in the proceedings on coerced marriage. The aforementioned Sultan Ahmad Islahi does invoke it in urging the Muslim community not to allow people's larger interests to be sacrificed in the name of particularistic legal norms.⁶³ It might seem to have been easy to invoke the common good as the basis for rejecting, in contemporary conditions, the stringent Hanafi norms on the permissibility of forcing women into marriage. Yet, even more than the language of *ijtihad*, appeals to *maslaha* can conjure images of tampering with a hallowed tradition in the name of mere expediency, and this is precisely the impression the proponents of legal change in the Fiqh Academy had wanted to avoid. The academy's debate on coerced marriage is nothing if

⁶³ In a rather different vein, *maslaha* is also invoked by ʿUbayd Allah Asʿadi, another contributor to the proceedings, in arguing that even as a woman is coerced into a marriage, her legal guardians should be assumed to have acted in her best interest (*maslaha*), and she should therefore strive to make this union a success. But he also notes that the woman has the right to have this marriage dissolved if she finds it utterly intolerable (*Jabri shadi*, 21–2).

not a contentious engagement with questions of the common good. As observed earlier, however, debates on the common good are not always clearly signposted as being on *maslaha*, and conversely, discourses on *maslaha* are not the only place to look for debates on the common good. Much the same is true in this instance.

“A CALL TO THE FAIR SEX”

In an earlier age and for all his criticism of the traditionalist `ulama, Rashid Rida was, ironically, in substantive agreement with them on the question of guardianship in marriage. In a fatwa published in 1904 in the pages of *al-Manar*, Rida had argued that a woman could not be married without a male guardian. Presenting this as the normative Islamic position with which the practice of the Prophet's companions had entirely been in consonance, he concluded:

The stipulation requiring the [male] guardian, together with the woman's consent to marriage, helps perfect the domestic order and befits the honor (*karama*) of both women and men. To abandon this [stipulation] is to exit from both the shari`a and *maslaha*. What greater corruption is there than virgins leaving their homes and not returning to them because they have themselves chosen their partners and married them? In doing so, they leave their parents and families in bewilderment and disarray. And they thereby create enmity and feuds between them and their spouse and his family.⁶⁴

As some of the misgivings of the contemporary Indian `ulama on women marrying on their own suggest, warnings about “virgins leaving their homes” have not lost their resonance. Yet despite his unacknowledged agreement with many `ulama of his and later times, Rida was also throwing down the gauntlet here to the Hanafis who did not, in principle, require a legal guardian's permission. All too expectedly, perhaps, an Indian Hanafi scholar from Bihar wrote to *al-Manar* to express his disapproval. This scholar, `Abd al-Ra'uf Bihari, did not say anything on the danger of young women marrying on their own, and he may well have agreed with Rida on this score. But he was incensed by the suggestion implicit in Rida's 1904 fatwa that the Hanafi view allowing an adult woman to marry of her own accord lacked support in the foundational texts or corroboration in the practice of the early community, and in good scholarly fashion, he proceeded to adduce a number of appropriately interpreted proofs in support of the Hanafi norm.⁶⁵ Needless to say,

⁶⁴ “Ishtirat al-wali fi'l-nikah,” *al-Manar* 7 (1904): 457–62; quotation at p. 462.

⁶⁵ `Abd al-Ra'uf al-Bihari, “Ishtirat al-wali fi'l-nikah,” *al-Manar* 8 (1905–6): 931–5. On this scholar, better known as Abu'l-Barakat `Abd al-Ra'uf Danapuri (d. 1948), see Abu'l-Kalam Qasimi Shamsi, *Tadhkira-i `ulama-i Bihar*, 2 vols. (Sitamurhi: Jami'a Islamiyya, 1995–2006), 1: 146–7. `Abd al-Ra'uf's rejoinder was sent to Rida with an accompanying note by one Sayyid Rahmat Allah, the principal of the Jami' al-'Ulum madrasa in Muzaffarpur in Bihar. See *al-Manar*, 8: 936; on Rahmat Allah (d. 1922), see Shamsi, *Tadhkira*, 1: 98.

Rida was not impressed. He dutifully published the Bihari scholar's rejoinder to his 1904 fatwa and added his own response to it. This response was not unlike what he would later write at much greater length in answering the query on financial interest from a mufti in Hyderabad (see Chapter 4). Rida defended his view on the necessity of a guardian if a woman's marriage was to be valid, but he also turned this response into a diatribe against those who would stand by their madhhab at all costs. Bigoted partisans of the school of law "made it the 'foundation' and the Book [of God] and the normative example [of the Prophet] merely the 'offshoots,' to be explained away or abandoned [as needed]."⁶⁶ That is, they got the relationship between the primary sources of authority and the derivative norms exactly wrong, and they did so willfully. As Rida saw it, engaging in such partisan hermeneutics was nothing other than the "interpretation according to mere whim," which leads, according to a frequently quoted hadith report, to perdition.⁶⁷

Despite the intemperance of his language, Rida was also on more or less the same page as many `ulama of his own and later times on the highly contentious question of polygamy. This is significant in view of the position that his mentor, Muhammad `Abduh, had taken in opposition to it. As quoted by Rida, `Abduh had argued that while polygamy had helped establish bonds of social solidarity (*al-`asabiyya*) in early Islamic times, it had become a grave social evil in the modern world:

Given that there is no way to properly nurture the community in the face of the diffusion of polygamy, it is necessary for the `ulama to look into this matter – in particular the Hanafis, whose school enjoys legal dominance [in Egypt]. For they do not dispute that the religion has been revealed for the good and welfare of the people (*li-maslahat al-nas wa khayrihim*), and that among its principles is warding off the injurious. If something leads to harm, though it had not had such harmful consequences in an earlier age, there is no doubt that the ruling relating to that matter must be altered in accordance with the new circumstances. This is the principle according to which avoiding harm takes precedence over seeking benefit. From all this, it is to be understood that polygamy would be absolutely forbidden when there is the apprehension that it would result in injustice.⁶⁸

Rida, however, had a markedly more conservative view on this question. Already in 1901, during `Abduh's lifetime, he had published selections from the contemporary English press purporting to show that some European women had themselves come to see polygamy as a solution to the ills afflicting their societies.⁶⁹ Much of what Rida quoted in this regard took the form of conservative commentary on the perils of sexual freedom and the consequences of the free mixing of men and women in factories and elsewhere, rather than an argument *for* polygamy, although that

⁶⁶ For Rida's response, titled "Jawab al-manar," see *al-Manar*, 8: 936–45; quotation at p. 940.

⁶⁷ *Ibid.*, 937, 945.

⁶⁸ Quoted in Rida, *Tafsir al-manar*, 4: 349f. (commenting on Q 4.2–4); *al-Manar* 12 (1909): 572. Cf. Muhammad Rashid Rida, *Nida lil-jins al-latif* (Cairo: Matba'at al-manar, 1932), 39.

⁶⁹ "al-Rijal wa'l-nisa," *al-Manar* 4 (1901): 485–8; Rida, *Tafsir al-manar*, 4: 360–2; *idem*, *Nida*, 43–5.

is how Rida presents it.⁷⁰ In one of the instances cited by Rida, a contributor to the London *Truth* did, however, call for an end to the prohibition on polygamy,⁷¹ citing an Englishwoman's lament in a letter to him on the "desolate condition of the 'unwanted' maidens of the present day, and the competition among the marriageable for husbands." This piece was reprinted in the *Lagos Weekly Record*,⁷² with a Nigerian contributor building on it to further argue that "to ensure life and existence for himself the African must needs hold in proper esteem the wholesome custom of polygamy which is the basis of native customs and law . . ." ⁷³ It was from the *Lagos Weekly Record* that Rida quoted the London *Truth* article. By the time it made it to the pages of *al-Manar*, however, the male contributor to the London *Truth* had become a woman and the article in the *Truth* had become conflated with the letter its author had received from the Englishwoman; the lament on the difficulties women faced in finding marriageable partners had, for its part, become her defense of polygamy. Leaving aside the intentional or unintended distortions of translation – from English to Arabic and from London via Lagos to Cairo – Rida's principal concern in this article was not, however, a justification of polygamy. Instead, it was to argue, against cultural stereotypes, that it is men who are largely responsible for the corruption of women rather than the other way round,⁷⁴ and that the abdication by men of their responsibility to take proper care of women had resulted in many social ills. Incidental to this was the argument that the protections a woman enjoyed in a polygamous Islamic household were far superior to the sexual exploitation she suffered in contemporary European societies.

Some years after `Abduh's death (1905), commenting on the Qur'anic verse allowing polygamy (Q 4.3), Rida offered a more vigorous defense. He acknowledged that it was ideal to have a monogamous household,⁷⁵ and he agreed that, in case of extreme need, an otherwise legitimate practice such as polygamy could be prohibited.⁷⁶ But he was convinced that polygamy could have much use for particular men and women, as well as for the community at large. And he suggested that the harsh things `Abduh had said about it were only to condemn those who married repeatedly (*al-dhawwaqun*), and divorced as often, in gratifying their baser

⁷⁰ There was, however, strong antifeminist sentiment in Britain both before and after World War I, which is what is reflected in Rida's selective quotations from the English press. On the setbacks British feminism faced in the aftermath of World War I, see Susan Kingsley Kent, *Making Peace: The Reconstruction of Gender in Interwar Britain* (Princeton: Princeton University Press, 1993).

⁷¹ Rida, "al-Rijal wa'l-nisa," 485–6; Rida, *Tafsir al-manar*, 4: 360–1; Rida, *Nida*, 43–4.

⁷² "The Marriage Problem in England," *The Lagos Weekly Record*, April 20, 1901, p. 5 (World Newspaper Archive, http://infoweb.newsbank.com/?db=WHNPX's_browseRef=decades/12D87532CC60CED8/all.xml; last accessed May 6, 2012). I have not been able to consult the relevant issue of the London *Truth* itself; my quotation from this article is via the *Lagos Weekly Record*.

⁷³ "The Marriage Question in England," *The Lagos Weekly Record*, April 20, 1901, p. 4.

⁷⁴ Rida, "al-Rijal wa'l-nisa," 484–5.

⁷⁵ Rida, *Tafsir al-manar*, 4: 363; Rida, *Nida*, 46. The commentary on this verse was first published in *al-Manar* 8 (1909).

⁷⁶ Rida, *Tafsir al-manar*, 4: 363; Rida, *Nida*, 46.

instincts.⁷⁷ He argued that legalizing polygamy would solve many problems that contemporary European women faced: it would not only be the right way to deal with promiscuity and its attendant evils, but it would also address difficulties created by the loss of countless men in wars.⁷⁸ The selections from the European press he had already published in 1901 were recycled to suggest that European women had themselves come to see polygamy as the panacea for some of these ills.

Rida repeated these views on polygamy in one of his last books, *A Call to the Fair Sex*, published in 1932. The book was occasioned by an invitation from an Indian association – the Sirat Committee, based in Lahore, in the Punjab – to write a book on “the prophet of Islam and the rights of the fair sex.” The association had been founded to propagate Islam but also to try to bring members of different religious communities closer together and, not least, to create a sense of unity within the Muslim community. A guiding idea was to take the birthday of the Prophet Muhammad (generally believed to fall on 12 Rabi` al-awwal, the third month of the Islamic lunar calendar) as the occasion to celebrate Islam and its prophet, to hold public meetings on that day, and to disseminate a published essay or lecture by a prominent figure on that occasion.⁷⁹ Rida was invited to write on the suggested topic in time for the association to publish it for the next birthday celebration in 1932.

The invitation letter made promises that would have excited Rida as he neared the end of his life. It noted that whereas the activities of the association had previously been limited to India, they were being expanded to other countries. The moving spirit behind this initiative, as the letter informed Rida, was Baron Rowland Headley (d. 1935), a British convert to Islam, who wanted to make it a global venture: the association’s program had been “translated into sixteen languages and six hundred thousand copies had been distributed among Muslim and non-Muslim readers.”⁸⁰ The letter said that plans were already underway to

⁷⁷ Rida, *Tafsir al-manar*, 4: 363; Rida, *Nida*, 46.

⁷⁸ Rida, *Tafsir al-manar*, 4: 360–2; Rida, *Nida*, 43–5.

⁷⁹ “Nida` amm li-ihya dhikra yawm al-nabi,” *al-Manar* 32 (1932): 190–2.

⁸⁰ “Khitab al-lajna li-sahib al-manar wa iqtirahuha `alayhi,” *al-Manar* 32 (1932): 280–3, at 281; Rida, *Nida*, pp. “jim-dal,” at “jim.” The invitation letter does not explicitly name the association; nor does the association’s promotional material published in *al-Manar* 32 (1932): 190–2. However, in view of the fact that the invitation sent to Rida was signed by one `Abd al-Majid Qarshi (*al-Manar*, 32 [1932]: 192), who was the secretary of Lahore’s Sirat Committee and the editor of a newspaper named *Iman*, it is clear that this was the association Rida was dealing with. Some of the committee’s publications did, indeed, make claims similar to those that would have attracted Rida. A promotional appendix to one publication noted, for instance, that the committee had been responsible for translating the “*sirat-i nabawi*” into twenty languages, had distributed 1200,000 copies of the “*sirat-i nabawi*,” and had held meetings commemorating the *sira* (Urdu: *sirat*) all over the world. See the unpaginated appendix at the end of `Abd al-Majid Qarshi, ed., *Jagat Maharishi* (Lahore: Secretary, Sirat Committee, 1934); for other grand figures, see `Abd al-Majid Qarshi, ed., *Islami khutbat* (Lahore: Idara-i tabligh wa isha`at, n.d.), 32. It is not clear if the “*sirat-i nabawi*” refers here simply to information about the life of the Prophet – which is what the phrase means – or to a specific work on it. Significantly, the book to which this promotional notice is appended is itself a collection of eight lectures by

translate what Rida – “the highest authority (*al-marji` al-a`la*) on this subject” – would write into different languages and to disseminate it among “millions” of people.⁸¹ The letter of invitation had been sent to Rida in English and it took some time for it to be translated for him. This, together with his busy schedule, meant that he missed the deadline suggested to him, though he did send a shorter piece to the association while continuing his work on the book.⁸² The book was published not long afterwards. There is no evidence that it was ever translated by this association or distributed in anything like the numbers the invitation letter had mentioned.

To many later readers, the reference to Lord Headley would suggest that some of those associated with the group in question had Ahmadi leanings, though the Sirat Committee itself was not an Ahmadi organization. The Ahmadis, it is worth noting, have been divided not only on how to view the person of Mirza Ghulam Ahmad (d. 1908), the founder of the Ahmadi community, but also on the question of how to relate to other Muslims. The “Lahore branch” was considerably more restrained than other Ahmadis in their view of Ghulam Ahmad’s prophetic claims. In the early twentieth century, its members were also keen on finding common ground with other Muslims, not least to improve the prospects of proselytism outside India. A leading member of this branch, Khawaja Kamaluddin (d. 1932), who had lived in England since 1912, served as the imam of a mosque in Woking, Surrey, and edited a journal called *Islamic Review*. It was under his influence that Lord Headley had embraced Islam; the two would later go together on the pilgrimage to Mecca. Annual celebrations of the Prophet’s birthday of the kind described to Rida by the invitation letter did indeed take place under the auspices of the Woking Mosque. Rida – who had shown little restraint in denouncing the claims of Mirza Ghulam Ahmad⁸³ – was aware that there were questions about whether Kamaluddin was an Ahmadi. But he had convinced himself that the rumors were false.⁸⁴ Nor was it obvious to all that Ahmadism was a heresy or precisely why it was so. In 1926, Ibn Sa`ud of Najd had expressed reservations about his son, Faysal, inaugurating an Ahmadi mosque in England, not because of the Ahmadis’ wayward views on prophethood but rather because “the mosque would be used

leading Hindu intellectuals on different aspects of the life of the Prophet Muhammad. For another reference to this Sirat Committee, in the context of its proselytism in Japan, see W. Hay to Sir John Simon, March 13, 1935, FO 371/19420, dispatch no. 42; reprinted in Priestland, ed., *Records of Islam*, 6: 268.

⁸¹ *al-Manar*, 32 (1932), 281–2; Rida, *Nida*, “jim-dal.”

⁸² See Rida’s note, *Nida*, “dal.”

⁸³ E.g., *al-Manar* 24 (1923): 578–83.

⁸⁴ On rifts within the Ahmadi community and on Kamaluddin, see Friedmann, *Prophecy Continuous*, 15–22, 148–51. On Kamaluddin, see also the obituary in *al-Manar*, 33 (1933), 138–40 written by one Khawaja `Abd al-Ghani, “secretary of al-Jam`iyya al-Islamiyya, Lahore,” with a prefatory note by Rida. For Rida’s awareness of rumors that Kamaluddin was an Ahmadi, see *al-Manar* 33 (1933): 138; *ibid.*, 24 (1923): 555.

by Moslems, Christians and Jews alike – a temple, in fact, for all religions.”⁸⁵ In any case, what Kamaluddin and especially Lord Headley represented for Rida was not an insidious Ahmadism but rather the prospect of making headway for Islam in the West. The promises made to him in the invitation letter had pointed in a similar direction.

Although ostensibly addressed to Muslim women, *A Call to the Fair Sex* is at least equally intended for an imagined European audience whose lingering ignorance and reservations about Islam it seeks to dispel. After all, the invitation letter had assured him that “his essay would have a strong appeal for, and influence on, women in America and Europe.”⁸⁶ Rida argues that Islam treats women and men equally in terms of their religious obligations and their ability to earn God’s favor. Women have the right to choose a spouse (though entering into a marriage requires a male guardian), and they have clearly stipulated rights and responsibilities in a marriage, just as men do. Men are heads of the household, but this, he reasons, eminently suits the good of all parties concerned. The book has sections on veiling, on the etiquettes of good Muslim women, and on divorce. The heart of the book is, however, a defense of polygamy, together with a discussion of the Prophet’s polygamous household.

A Call to the Fair Sex is a rushed book, and much of what Rida says in defense of polygamy is what he had published earlier in his commentary on Q 4.3. But this recycled content now seemed poised for a new and vast readership. Rida evidently hoped to remind European women of what some of their own had been writing about the perils of sexual freedom, women’s exploitation in the workplace, and the sad fate of illegitimate children. All this was to be contrasted with the rights Islam had guaranteed to women long ago. These rights, and the manner in which Islam had defined a woman’s position in the household and in society, might not be fashionable by European standards, but the testimony of contemporary European observers showed that they represented the proper solution to the many social ills that afflicted even the most advanced societies: “If European women . . . knew of the laws and ethics of the shari`a, if these were codified for them in the form of legislation that clearly revealed their distinctive characteristics, they would establish parties and associations to demand them as a way of saving civilization from moral chaos and degeneration.”⁸⁷

Put differently, what prevented European women from following the teachings of Islam was merely their lack of acquaintance with them. This is a familiar theme in much Islamist rhetoric. It anticipates the view of the Egyptian Islamist ideologue Sayyid Qutb (d. 1966) that people can be said to enjoy the “freedom” to accept

⁸⁵ Enclosure on “Jeddah Report for the period October 1 to October 31, 1926,” in Norman Mayers to Austen Chamberlain, December 4, 1926, FO 406/58: E 6655/367/91; reprinted in Jarman, ed., *The Jeddah Diaries*, 2: 417.

⁸⁶ *al-Manar* 32 (1932): 281; Rida, *Nida*, “jim.”

⁸⁷ Rida, *Nida*, 121.

or reject Islam only after all the constraints on their ability to make an informed judgment about it have been removed; the implicit expectation is, of course, that Islam would look irresistible in such non-coercive circumstances.⁸⁸ It also fits in well with Rida's frequent lament that contemporary Muslims and especially their religious leaders were a bad advertisement for Islam. If the true teachings of Islam could only be rescued from the distortions and the veils of ignorance surrounding them, Muslims would reclaim the place God had intended for them in the world all along, and nothing would stop non-Muslims from seeing how well Islam conformed to their own highest ideals.

Even as he looked forward to the time when Europe, and its women, would come around to Islam,⁸⁹ what advice did Rida have for Muslim women? It is to them, after all, that the book is ostensibly addressed. As he saw it, his primary task was to make them aware of their rights so that they could demand them of men. Rida decried the hypocrisy of his contemporary Muslim men in expecting a great deal of their wives all while insisting that the shari`a did not impose any obligations on women for cooking, cleaning, or taking care of children.⁹⁰ A better understanding of the teachings of Islam would enable them to hold the men in their lives more accountable. It would also show them the folly of imitating Western women in their misguided ways – for instance, their demands for complete equality with men in the workplace and in politics.

There is some tension in Rida's concluding advice to Muslim women between urging them to "leave aside the temptations of politics," on the one hand and, on the other, to

demand from the government and the community to obligate male and female students to perform their prayers and to fast; to expand the scope of lessons on Islam, its ethics, history, and why it is superior to all other laws and religions; and . . . to have open and hidden forms of prostitution outlawed, wine-drinking banned, and the dishonoring of women and their free mixing with men in dance halls, places of entertainment, and beaches brought to an end.⁹¹

The best way to resolve this tension may be to posit a distinction between "bad" politics and "good." Those deluded by the former kind sought simply to compete with men in the public sphere at the expense of the functions God and nature had intended for women. "Good" politics, on the other hand, was the kind of association-based activism that was common in Europe. Rida was probably not unaware that even anti-suffragette English women had their own leagues and

⁸⁸ Sayyid Qutb, *Ma`alim fi'l-tariq* (Cairo: Dar al-shuruq, 1973), 59–64.

⁸⁹ Cf. Rida, *Nida*, 42, 48 (citing George Bernard Shaw's view that Europeans and Americans would become Muslim before the end of the twentieth century).

⁹⁰ *Ibid.*, 21.

⁹¹ *Ibid.*, 122.

associations.⁹² They would have mobilized such associations for the implementation of *Islamic* norms if they only knew a little more about them; and Muslim women ought to do the same.



WHILE HE WAS WORKING ON HIS *CALL TO THE FAIR SEX*, RIDA HAD COME TO realize that the Indian association that had invited him to write it would not be able to have it translated into different languages, at least in time for the next celebration of the Prophet's birthday.⁹³ It is hard to imagine that it would have had much impact in any European circles even if the translation plans had proceeded as promised. Some of its themes, however, have continued to echo in writings on women in the Arab Middle East and in South Asia, where his deployment of a modern and rational idiom in defense of a traditionalist position has had some influence. In a book titled *Woman between Islamic and Secular Law*, first published in 1962, Mustafa al-Siba'i (d. 1964) – a Syrian Islamist associated with the Muslim Brotherhood and sometime chair of the Department of Islamic Law at the University of Damascus – uses some of the same material that Rida had cited from turn-of-the-century Europeans to argue in favor of polygamy and to show how it accords with human nature.⁹⁴ While Rida had tried to explain away 'Abduh's denunciation of polygamy, Siba'i is more blunt. "To prohibit it outright is to change the laws of God," he says, and 'Abduh could not have intended that. "But if he did, this view of his is to be rejected; for God's law is more deserving of being followed, and God is more knowledgeable [than anyone else] of the wisdom behind His legislation."⁹⁵ Siba'i's work guides, in turn, arguments by the aforementioned Burhan al-din Sanbhali of the Nadwat al-'Ulama. In a book titled *Social Problems in Light of the Religion of Nature*, Sanbhali offers, inter alia, an extended defense of polygamy and tries, once again, to show that not a few Western women themselves favor it. Much of his evidence comes from Siba'i's work, including some that Rida had first adduced.⁹⁶

But Sanbhali's context is not Rida's or even that of the Islamist Siba'i. Sanbhali's book was first published in 1975, two years after the establishment of the All India Muslim Personal Law Board (AIMPLB), and it belongs squarely in this Indian

⁹² See Julia Bush, *Women against the Vote: Female Anti-Suffragism in Britain* (Oxford: Oxford University Press, 2007).

⁹³ Rida, *Nida*, p. "dal." The association did claim, however, to have translated the shorter piece Rida had sent them on the Prophet's life into ten languages. Ibid.

⁹⁴ Mustafa al-Siba'i, *al-Mar'a bayn al-fiqh wa'l-qanun* (Damascus: Matba'at jami'at Dimashq, 1962), 82; cf. Rida, *Nida*, 43–4. Siba'i adds further illustrations in favor of his argument, including an account of a not altogether pleasant conversation he had on polygamy with J. N. D. Anderson, a scholar of Islamic law at the School of Oriental and African Studies in London. See *ibid.* 87–9.

⁹⁵ Siba'i, *al-Mar'a*, 107.

⁹⁶ Sanbhali, *Mu'asharati masa'il*, 172–8.

context. As would be recalled, the AIMPLB was established to defend shari`a-based laws of Muslim personal status against interference by the Indian parliament and the judiciary. Above all, the AIMPLB has consistently argued against demands that all citizens should be subject to a “uniform civil code” rather than to laws based on their religious traditions. But it is not just against religious and secular Hindus that the `ulama associated with this organization have had to argue. An equally serious threat comes from Muslim modernists seeking wide-ranging change in the laws of personal status. Sanbhali’s work is intended to provide guidance to such modern-educated but otherwise ill-informed people so that they can come to understand that shari`a norms are divinely mandated and thus immutable but also that they are in accord with the laws of nature.⁹⁷ Again, a modern idiom helps affirm a conservative defense of Islamic legal norms. Rida would not have warmed to Sanbhali’s traditionalism, and the latter is content to cite Siba`i rather than Rida, whom he presumably considers too much of a modernist. Even so, at least on the question of polygamy and how to defend it in the modern world, Sanbhali and Rida are on more or less the same page.

Qaradawi has defended polygamy as well and he, too, has done so in a distinctly modern idiom. Much like Rida, it is not enough for him simply to assert that there can be no argument about a practice permitted by the Qur’an. Rather, polygamy is seen as an illustration of Islam’s practicality, because it helps address real life problems. For instance, if there are more women than men in a community, the available solutions are that some women be deprived altogether of marital life, or that some lead immoral lives, or else that they accept being part of a polygamous household. It is clear, he says, that the third option is “the appropriate solution.”⁹⁸ The objection that the “right” to polygamy is abused by people holds no water for him. Even a monogamous marriage can lead to abuses, he retorts, “so should we abolish it, too? Freedom is misused, so are we to end it? Elections are misused, so should the authorities rule them out? By abolishing everything that is liable to misuse, are we to turn life into chaos? . . . Instead, we should make rules for their practice and, as far as possible, punish those who abuse [such rights].”⁹⁹

The language of rights is invoked again, together with that of “choice,” in defense of a peculiar kind of secret marriage commonly known as *misyar*. Because this is usually practiced by men who are already married, Qaradawi’s defense of it is also an argument in favor of polygamy. Found especially in Saudi Arabia and the

⁹⁷ See the preface by Sayyid Abu’l-Hasan `Ali Nadwi to Sanbhali, *Mu`asharati masa’il*, 22–9. In the first edition of this book (1975), Sanbhali had taken particular issue with the proposals of a noted modernist, Asaf A. A. Fyzee, for changes in personal status laws. For these proposals, see Fyzee, *The Reform of Muslim Personal Law in India* (Bombay: Nachiketa Publications Ltd., 1971). For Sanbhali’s critique, see *Mu`asharati masa’il* (1975), 187–224. This critique has been omitted from the 2009 edition.

⁹⁸ Qaradawi, *Fatawa mu`asira*, 3: 582–6, at 583.

⁹⁹ *Ibid.*, 3: 583.

Persian Gulf states, this practice refers to a marriage in which the woman foregoes some of the rights Islamic law grants to her. The husband is not responsible for her upkeep (*nafaqa*), he does not have to live with her, and he is not required to treat her on par with his other wives.¹⁰⁰

Qaradawi acknowledges that he has angered “the majority of women in Qatar” – his adopted home – with his fatwa on this subject, but he notes that a scholar’s calling is to speak the truth rather than pander to people.¹⁰¹ There is no legal impediment to a misyar marriage so far as the shari’a is concerned, he says; and “a jurist cannot prevent a woman from foregoing some of her rights by her choice and in her own interest, of which she is the judge, provided that she is a legally competent adult . . .”¹⁰² The rationale for a misyar marriage, as Qaradawi sees it, is a woman’s desire for sexual fulfillment; it enables women to avoid the promiscuity that is so rampant in the West while fulfilling their sexual needs within the bounds of the shari’a.¹⁰³ The only cost of such marriages is that the woman does not enjoy many of the rights she would in an “ideal Islamic marriage”¹⁰⁴ but, he says, this is her own choice.

What about keeping such marriages secret? In responding to this issue, Qaradawi takes aim at the cultural onslaught from the West, which, in films and television serials, has tended to portray polygamy as an unmitigated evil. “This has had an especially severe influence on our daughters and wives, rather like washing their brains clean of Islamic understandings, values, and rulings. Consequently, the Muslim woman has come to see a second marriage as a heinous crime.” In such circumstances, he says approvingly, some men have kept a second or subsequent marriage secret from their wives by way of their concern for the latter’s well-being.¹⁰⁵

As Qaradawi sees it, a misyar marriage provides a legitimate outlet to increasing numbers of women who, for one reason or another, have not been able to get married in the conventional way and who have the financial independence not to need their husband’s support.¹⁰⁶ The fatwa purports to have been written almost entirely from the perspective of the woman and *her* rights. But he does not ask why, if it is indeed a woman’s interests and her choices that a misyar marriage serves to protect, “the majority” of Qatari women should have been so displeased with the fatwa. Nor does he ask what it means for someone to be relinquishing her rights “by choice.” He does note the objection that misyar provides a solution only to

¹⁰⁰ For Qaradawi’s fatwa on misyar, see *Fatawa mu`asira*, 3: 291–309. On the institution of misyar, see Maha A. Z. Yamani, *Polygamy and Law in Contemporary Saudi Arabia* (Reading: Ithaca Press, 2008), 106–11.

¹⁰¹ Qaradawi, *Fatawa mu`asira*, 3: 292–3.

¹⁰² *Ibid.*, 3: 296.

¹⁰³ *Ibid.*, 3: 300–2.

¹⁰⁴ Cf. *ibid.*, 3: 299.

¹⁰⁵ *Ibid.*, 3: 306–7.

¹⁰⁶ *Ibid.*, 3: 294–5.

rich women, who do not need financial support from their husbands, and that it does not do anything for poorer women. His answer is that one should solve the problem one can while waiting for the right moment to attend to others.¹⁰⁷ But the possibility that *misyar* might make less privileged women even more vulnerable in their marriages than they are under the terms of traditional Islamic law is passed over in silence.

THE MUSLIM CONVERT AND HER NON-MUSLIM HUSBAND

Despite the defense of polygamy by many modern *ʿulama*, there *are* instances in which it is not just their idiom and rhetoric but also the content of some of their positions that has pointed in distinctly unusual directions. I will draw my examples here from the debate on the permissibility of marrying non-Muslims. By way of background, three things are worth bearing in mind. First, following Q 2.221, Islamic law forbids marriage between Muslims – men or women – and polytheists (*mushrikun*).¹⁰⁸ Second, the law permits Muslim *men* to marry women from among the People of the Book, usually understood to be Jews and Christians, though not a few jurists have sought to curb that permission. It has been argued, for instance, that Christians today are closer to being polytheists than they are to the Qurʾanic People of the Book and that they are therefore to be subsumed under the Qurʾanic prohibition against marrying polytheists.¹⁰⁹ Third, there is widespread juridical agreement that Muslim women are not permitted to marry non-Muslim men even if they are Jews or Christians.

In 1909, Rida published a fatwa in response to a question he had received from Java on whether it was permissible to marry Chinese non-Muslim women. The questioner had also asked precisely what the designation People of the Book referred to, whether their women (*kitabiyas* [from *kitab*: book]; masculine: *kitabīs*) were excluded from the putative prohibition against marrying non-Muslims, and whether “today’s Europeans” were still recognizable as People of the Book. Rida’s response later became part of his commentary on Q 5:5:

Today all good things have been made lawful for you. The food of the People of the Book is lawful for you as your food is lawful for them. So are chaste, believing women

¹⁰⁷ *Ibid.*, 3: 308–9.

¹⁰⁸ Q 2.221 reads, “Do not marry idolatresses (*al-mushrikat*) until they believe: a believing slave woman is certainly better than an idolatress, even though she may please you. And do not give your women in marriage to idolaters (*al-mushrikin*) until they believe: a believing slave is certainly better than an idolater, even though he may please you. Such people call [you] to the Fire, while God calls [you] to the Garden and forgiveness by His leave. He makes His messages clear to people, so that they may bear them in mind.”

¹⁰⁹ Questions received by modern muftis regarding marriage with People of the Book tend to be about Christian women much more commonly than they are about Jewish women. See, for instance, *Fatawa Dar al-ʿUlum*, 7: 201 (#447), 208 (#468).

as well as chaste women of the people who were given the scripture before you, as long as you have given them their dowries and married them, not taking them as lovers or secret mistresses . . .¹¹⁰

Rida argues that Muslim men are, indeed, permitted to marry kitabiyya women and that alleged changes in the beliefs of Jews and Christians over the course of their history have had no effect on this Qur'anic rule. The real question, however, is who counted as People of the Book and who was a polytheist. Rida's answer – unconventional from the perspective of the Islamic legal tradition – is that the Qur'anic polytheists were primarily the polytheists of *Arabia* and it was at them that the marital prohibition was directed. Buddhists, Brahmins, Confucians, and followers of Japanese religions could, for their part, be subsumed under People of the Book on the assumption that they, too, were recipients of scriptures that they had lost or forgotten.¹¹¹ Rida draws here on debates following the Islamic conquests on how people not specifically mentioned as People of the Book in the Qur'an should be treated: as “protected people” subject to taxation by the Islamic state or, instead, as people who could legitimately be coerced to become Muslims on pain of death. Expediency dictated the adoption of the former option, although the permission to marry and dine with non-Muslims generally remained limited to Jews and Christians. It is this permission that Rida seeks to extend, but he does so in a way that allows him to take familiar swipes at the degenerate state of the umma. The fact that many people had forgotten their scriptural teachings should not divest them of their status as People of the Book, he says, for Muslims, too, have long forgotten the teachings of *their* foundational texts.¹¹² Further, the fact that Jews and Christians do have their scriptures and are better recognizable as People of the Book need not limit that designation to them any more than “the application of the title “ulama’ to a particular group of people with particular characteristics entails that knowledge is limited to them and that everyone else is devoid of it.”¹¹³

Where other `ulama had been “all too eager to assign the People of the Book to the ranks of the polytheists,”¹¹⁴ Rida sought to enlarge the circle of the kitabis and, by extension, of legitimate Muslim interaction with them. Apart from other things, a very practical consideration was at play here. As the query to which Rida's fatwa was a response had hinted, marriage with non-Muslim women had been a means of expanding the reach of Islam. Conversely, to condemn the long established

¹¹⁰ For the questions and Rida's fatwa, see *al-Manar* 12 (1909): 260–9. This is reproduced, without the questions and as part of a more elaborate discussion, in Rida, *Tafsir al-manar*, 6: 186–93. For Rida's full discussion of Q 5.5, see *ibid.*, 5: 177–219. My references are to the latter, unless indicated otherwise.

¹¹¹ Rida, *Tafsir al-manar*, 6: 187–8, 193 (on those who are to be counted among the People of the Book); *ibid.*, 6: 186, 190, 191, 193 (on the Qur'anic polytheists being primarily the polytheists of Arabia).

¹¹² *Ibid.*, 6: 188.

¹¹³ *Ibid.*, 6: 189.

¹¹⁴ *Ibid.*, 6: 187.

practice of such marriages would amount to saying that Muslims were flouting the express dictates of their religion and had become unbelievers for doing so.¹¹⁵ The traditionalist `ulama might not care much about the social costs of such judgments, but Rida makes it clear that he did; and so, presumably, did his correspondents in Java. The rhetorical point Rida was able to score on this occasion is not all there is to this exchange, however. His fatwa does, in fact, represent a significant departure from what other muftis would have been comfortable saying on this question.

Rida was clear, though, that a Muslim *woman* was not permitted to marry a non-Muslim.¹¹⁶ Even this long-held view has come to be contested by some others, however. I will discuss two instances here: one from Pakistan in the 1950s and the other with reference to Qaradawi.

My first example comes from a book titled *The Religion is Easy (al-Din yusr)* published in 1955 by Muhammad Ja`far Nadwi Phulwarwi. As his name suggests, Phulwarwi was educated at the Nadwat al-`Ulama in Lucknow. Indeed, he was the son of one of the founders of this institution. He later served as an imam at the central mosque of the princely state of Kapurthala in the Punjab. After the establishment of Pakistan, Phulwarwi worked for more than two decades at the Institute of Islamic Culture, a semi-official modernist research academy in Lahore. He died in 1982.¹¹⁷

Though it does not specifically refer to Rida, Phulwarwi's *The Religion is Easy* unmistakably evokes Rida's *Ease of Islam (Yusr al-Islam)*. It is not clear why he so conspicuously ignores Rida. He does, however, extensively cite the *Philosophy of Legislation in Islam* by the Lebanese scholar Subhi Mahmasani, who, in turn, draws on some of Rida's work, including *The Ease of Islam*. In any case, Rida's *Ease of Islam* is primarily concerned with the idea of *maslaha*, the common good, whereas Phulwarwi's concerns are much broader. He seeks to show that Islam promotes human welfare in all conceivable ways, that the `ulama have imposed unwarranted constraints on things permitted to Muslims by God and His Prophet, and that the most effective way of reclaiming this easy-to-live religion is by returning to the Islamic foundational texts.¹¹⁸ Phulwarwi argues, as had Rida, that one ought to distinguish between eternal, universal norms and those that may have been intended only for a certain time and place. It is in this context that he addresses

¹¹⁵ Ibid., 6: 190.

¹¹⁶ Ibid., 6: 185, 194.

¹¹⁷ For a biographical sketch, see Muhammad Ishaq Bhatti, *Bazm-i arjumandan* (Delhi: al-Kitab international, 2005), 351–99.

¹¹⁸ Shah Muhammad Ja`far Phulwarwi, *al-Din yusr* (Lahore: Idara-i thaqafat-i Islamiyya, 1955). The works by Rida and Mahmasani that I mention are as follows: Muhammad Rashid Rida, *Yusr al-Islam wa usul al-tashri` al-`amm* (Cairo: al-Mu'tamar al-Islami, 1956; first published in 1928); and Subhi Mahmasani, *Falsafat al-tashri` fi'l-Islam* (Beirut: Matabi` Dar al-kashshaf, 1952; first published in 1946). As Mahmasani notes in the preface to the second edition of this work, the provincial government of the Punjab, Pakistan, had requested permission to have the work translated into Urdu: Mahmasani, *Falsafat al-tashri`*, 3.

the question of whether a Muslim woman might legitimately marry a Jew or a Christian.

As Phulwarwi sees it, Islam provided women far more rights than had been given to Jewish and Christian women by their religious traditions. It therefore did not make sense for a Muslim woman to lose the rights that already belonged to her by marrying into those religious communities. It did make sense for a Muslim man to marry a Jewish or Christian woman for the latter would thereby come to enjoy the privileges Islam guaranteed to its women.¹¹⁹ But, he asks, what if the People of the Book advanced in cultural, ethical, and intellectual terms to a much higher plane than Muslim societies and began to give greater rights to women than Muslims did to their own? His answer to this rhetorical question is that, in such a situation, it would, indeed, be permissible for a Muslim woman to marry a Jewish or Christian man. In contrast with other `ulama, Phulwarwi does not believe that there is any explicit prohibition in the Qur'an against Muslim women marrying People of the Book.¹²⁰ The only impediment, then, has to do with considerations of harm and benefit and these are subject to changing evaluations. Phulwarwi does stipulate, however, that before a Muslim woman is allowed to marry outside her faith, she should have the intellectual and moral strength and maturity whereby she is able to shape her non-Muslim husband and her children into an Islamic mold; she should also be able, at the very least, to enjoy the rights and privileges that Islam guarantees to its women. As he memorably puts it, she should go to her non-Muslim husband not like a melon but rather like the knife that cuts the melon.¹²¹

It is far from obvious why Phulwarwi takes on the problem of the Muslim woman's marriage to a non-Muslim. That he wrote this book while working for a government-supported modernist research institution does not explain it adequately, for there was no pressing need for the modernizing governing elite or anyone else in a predominantly Muslim country to take this position. Phulwarwi's ostensible concern in discussing this issue is to show that not all norms are binding for all times, yet that argument does not require taking this particular position either. There are at least two other explanations to consider, however. First, Phulwarwi looks forward to seeing the presence and influence of Islam extended in the West, and the marriage of Muslim women with non-Muslims is seen as a means to that end.¹²² There is a partial parallel with Rida here: he had spoken of Chinese women in his response to the question from Java but he was, of course, especially eager to see Islam expand its presence in the West, not least by offering a panacea to European social ills.

¹¹⁹ Phulwarwi, *al-Din yusr*, 164–5. For similar reasoning by Qaradawi, see *Fatawa al-nisa*, 205–6.

¹²⁰ Phulwarwi, *al-Din yusr*, 173, 175. The `ulama usually invoke Q 2.221 in support of their position (e.g., Rahmani, *Fatawa*, 4: 355 n. 3), but that verse forbids Muslim men and women from marrying polytheists rather than People of the Book.

¹²¹ Phulwarwi, *al-Din yusr*, 175.

¹²² *Ibid.*, 174–5.

The second possibility has to do with fissures within the Muslim community. The marriage of Muslim women with non-Muslims may well be, for Phulwarwi, a way of discussing the question of whether people belonging to one Muslim doctrinal orientation might legitimately marry those of another. Deobandi muftis are often asked whether a Sunni woman can marry a Shi'i man. After some equivocation, the usual Deobandi answer is in the negative.¹²³ And they are more emphatic in ruling out any marital ties with the Ahmadis.¹²⁴ It may be that Phulwarwi's concern is not just to find means for proselytism among non-Muslims but also to bridge some of the divides within the Muslim community: for if, as he says, there is no definitive scriptural impediment to a Muslim woman marrying a Jew or a Christian, there is, a fortiori, none in case of rival Muslim orientations either.¹²⁵ Again like Rida, there is an implicit critique of the `ulama here: if it were not for the `ulama, Muslims would be a unified community, and the appeal of Islam to the rest of the world would be irresistible.

We do not need to speculate on why marriage across confessional boundaries is a matter of discussion in my second example, which comes from a debate on this issue among members of the European Council for Fatwa and Research (ECFR). In contemporary Europe and North America, there probably are many instances of one spouse converting to Islam while the other continues to adhere to her or his existing faith. Little problem is posed by the husband's conversion to Islam since all schools of law allow – at least in principle – a Muslim man to marry, and to remain married to, a Jewish or Christian woman. The problem arises, however, when the wife converts to Islam but the husband does not; and this is the issue the ECFR debated at a meeting in 2001.¹²⁶ A number of scholars associated with it wrote their separate opinions on this question, and most of them affirmed the traditional Islamic position that the wife needed to separate from her husband in the event of her conversion to Islam and his refusal to follow suit. Qaradawi, for his part, argued in favor of letting such a marriage continue.¹²⁷

Qaradawi's principal interlocutor in his discussion is Ibn Qayyim al-Jawziyya (d. 1350), the fourteenth-century Hanbali scholar Rashid Rida had invoked in his

¹²³ *Fatawa Dar al-`Ulum*, 7: 197 (#437), 322 (#744), 325–8; Rahmani, *Fatawa*, 4: 355–6. These questions have to do, apparently, with the Imami or Ithna `ashari ("Twelver") Shi'a. On the Isma'ili Shi'a, see Rahmani, *Fatawa*, 4: 353.

¹²⁴ *Fatawa Dar al-`Ulum*, 7: 198, 321 (#744), 323 (#745, 747); Rahmani, *Fatawa*, 4: 353–4.

¹²⁵ This, however, is not how Phulwarwi puts it. Rather, he notes that, in particular cases, there may be greater cultural barriers to intra-Muslim marriages across doctrinal lines (Sunni and Shi'i; Deobandi, Ahl-i Hadith, and Bareilawi) than to marriages between Muslim women and male People of the Book. Phulwarwi, *al-Din yusr*, 175–6.

¹²⁶ See International Union of Muslim Scholars, *al-Majalla al-`ilmiyya lil-majlis al-urubbi lil-ifta' wa'l-buhuth*, vol. 2 (Dublin: N.p., 2003).

¹²⁷ Yusuf al-Qaradawi, "Islam al-mar'a duna zawjiha hal yufarraq baynahuma?" in *al-Majalla al-`ilmiyya*, 2: 421–43. The fatwa is also included in Qaradawi's *Fatawa mu`asira*, 3: 623–42; my references are to *al-Majalla `ilmiyya* edition.

discussion of financial interest and one frequently referred to by other Salafis, too. In a work on the laws relating to non-Muslims living in Muslim lands (*ahl al-dhimma*), Ibn al-Qayyim had addressed an issue that Qaradawi takes to be similar to the one before the ECFR. In good scholastic fashion, Ibn al-Qayyim had proceeded to list a variety of opinions on the matter, two of which are especially relevant for Qaradawi's purposes.¹²⁸ According to some accounts, `Umar b. al-Khattab, the second caliph, gave a choice to a Christian woman who had converted to Islam to either be divorced from her Christian husband or stay married to him. (It is worth bearing in mind that Islamic law gives few choices to a Muslim woman to leave her *Muslim* husband.) For his part, `Ali b. Abi Talib, the fourth caliph, held that as long as the woman convert had not left her non-Muslim domicile, her husband "had greater right to her" than anyone else. Ibn al-Qayyim made clear that he preferred `Umar's view, but he added an important proviso to explain what a woman convert's choosing to continue living with her non-Muslim husband would entail. "The meaning of this," he clarified, "is not that she ought to live under his authority (*annahā tuqim tahtahu*) while he remains a Christian. It is rather that she ought to wait; and when he converts she can still be his wife, even if she stays this way for two years."¹²⁹ In more direct terms, while she is waiting for her husband to convert, the Muslim woman should not allow him to have sexual intercourse with her.¹³⁰ Such an arrangement secures the welfare (*maslaha*) of the spouses in this world and in the next, Ibn al-Qayyim had said; for the marriage would be preserved without yet having a Muslim woman submit to her unbelieving husband.¹³¹

Having followed Ibn al-Qayyim for much of this discussion, Qaradawi takes his leave of him when it comes to the question of the kind of relationship the couple is to have after the woman's conversion to Islam. Ibn al-Qayyim had promised, Qaradawi complains, that he would look into the sources of the different views he presents and evaluate them in terms of their credibility. "But he did not keep his promise," preferring instead to simply endorse one view. Qaradawi's self-appointed task is to bring out the variety of opinions one finds on this question in some early,

¹²⁸ See Ibn Qayyim al-Jawziyya, *Ahkam ahl al-dhimma*, ed. Yusuf b. Ahmad al-Bakri and Shakir b. Tawfiq al-Aruri, 3 vols. (Dammam: Dar Ibn Hazm, 1997), 2: 640–95. Qaradawi uses a different edition of this work. As Ibn al-Qayyim notes (*Ahkam*, 2: 685–6), those who insisted on a divorce between a woman converting to Islam and her unbelieving husband argued on the basis of Q 60.10: "You who believe, test the believing women when they come to you as emigrants – God knows best about their faith – and if you are sure of their belief, do not send them back to the disbelievers: they are not lawful wives for them, nor are the disbelievers their lawful husbands. Give the disbelievers whatever dowries they have paid – if you choose to marry them, there is no blame on you once you have paid their dowries – and do not yourselves hold on to marriage ties with disbelieving women. Ask for repayment of the dowries you have paid, and let the disbelievers do the same. This is God's judgement: He judges between you, God is all knowing and wise."

¹²⁹ Ibn al-Qayyim, *Ahkam*, 2: 646; Qaradawi, "Islam al-mar'a," 2: 426.

¹³⁰ Ibn al-Qayyim, *Ahkam*, 2: 695; Qaradawi, "Islam al-mar'a," 2: 435, 438–9.

¹³¹ Ibn al-Qayyim, *Ahkam*, 2: 695; Qaradawi, "Islam al-mar'a," 2: 435.

pre-canonical, collections of hadith as well as in early works of law.¹³² And it is `Ali's aforementioned view that he highlights in the process.¹³³ Qaradawi's complaint is not, of course, that Ibn al-Qayyim suppresses this view – for he does not – but rather that he marginalizes it, and others like it, in favor of the view he prefers.

Qaradawi, however, is not notably more scrupulous in his scholarly methods than Ibn al-Qayyim. It is worth noting, for instance, that the assumption underlying `Ali's view seems to be that the woman convert would soon leave her town to join her new Muslim coreligionists and, by the same token, end her existing marriage. Qaradawi, for his part, accepts the view that the couple may continue to have a sexual relationship, but he discounts `Ali's implicit expectation about the woman relocating to the company of Muslims. Further, he interprets Ibn al-Qayyim's statement that the woman's marriage to her unbelieving husband could continue in hopes of his conversion even for two years to mean that such a marriage can, in fact, go on indefinitely. This collage of views leads to the conclusion that a woman married to a non-Muslim husband can continue to stay married to him with full conjugal rights and responsibilities.

Qaradawi's position is guided by the view that if women are to be genuinely reassured that conversion to Islam would not ruin their marriage, then it is not enough simply to continue the marriage tie itself; what ought to be safeguarded is a genuine marital relationship in *all* its facets, including the sexual. Already, Ibn al-Qayyim had argued that the insistence on immediate separation between a woman convert and her unbelieving husband would scare people away (*tanfir*) from Islam.¹³⁴ Qaradawi follows him in this argument but takes it to its logical implication. There is a "practical difficulty," he says, in Ibn al-Qayyim's proviso that they not have sex: "Can each of them wait patiently in this situation, living under the same roof but not drawing near each other – especially if they are young?"¹³⁵ The answer to this rhetorical question is obvious. But Qaradawi's concern is not just to show that he understands people's needs better than other contemporary or earlier `ulama. It is also to suggest that the scholars' failure lies equally in neglecting resources already available to them in the Islamic tradition. In a move that would have pleased Rashid Rida, Qaradawi argues that scholars often disallow the issuing of fatwas in light of views attributed to the companions of the Prophet and their immediate successors on the grounds that such views are too general and vague, not having been refracted through the methodological principles devised by the later schools of law.¹³⁶ But this is an absurd position, he says, for it ignores the fact that plenty of things reported from the masters of the schools of law are *also* in need

¹³² Among the books Qaradawi mentions are the *Musannaf* of `Abd al-Razzaq al-San`ani (d. 827), the *Musannaf* of Ibn Abi Shayba (d. 849), the *Sunan* of al-Bayhaqi (d. 1066), and the works of Abu Ja'far al-Tahawi (d. 933). See Qaradawi, "Islam al-mar'a," 2: 436.

¹³³ Qaradawi, "Islam al-mar'a," 2: 436–38.

¹³⁴ Ibn al-Qayyim, *Ahkam*, 2: 694.

¹³⁵ Qaradawi, "Islam al-mar'a," 2: 439.

¹³⁶ *Ibid.*, 2: 441.

of much further clarification.¹³⁷ Qaradawi's objection to this taqlid-based view is, of course, that it privileges later authorities over earlier ones. Ibn al-Qayyim was among the most vociferous medieval critics of such taqlid, although, in an act of one-upmanship, readers are given to understand that Qaradawi is more adept at practicing Ibn al-Qayyim's own principles than he was himself.

Yet Ibn al-Qayyim may well have had the last laugh, at least on the question at hand. Having argued that allowing the woman convert to preserve a sexless marriage was in the spouses' best interest, he observes that the practice of the Prophet and of the first caliphs provided further proof that difference of religion was not grounds for immediate divorce. Many men had renounced Islam in its early years while their wives remained Muslims, he says. If such men continued in their apostasy, they were killed; but if they became Muslims again, they were allowed to go back to their wives. Once again, Ibn al-Qayyim remarks, to have immediately dissolved their marriages would only have discouraged them from returning to Islam, "while the goal is to reconcile hearts with Islam through all means."¹³⁸ Qaradawi omits this part of Ibn al-Qayyim's discussion entirely, and it is not difficult to see why. The contemporary implication of Ibn al-Qayyim's position would obviously be that a Muslim woman is to stay with her husband even if he becomes an apostate. Rather than inviting more women to become Muslims by assuring them that their marital lives would not be disrupted by their conversion, Ibn al-Qayyim's position would allow Muslim *men* to leave Islam without fear of any adverse effects on their marriage. This is clearly not a possibility Qaradawi wants to introduce to his audiences, even if only to refute it.



LIKE RASHID RIDA'S VIEWS ON MARRIAGE WITH CHINESE WOMEN, THOUGH to a much greater degree, Qaradawi's fatwa on the woman convert is a significant departure from traditionalist jurisprudence. He acknowledges this, as well as the fact that he had once held the conventional view on this matter. When the Sudanese Islamist Hasan al-Turabi (b. 1932) had proposed, at a convention of Muslim students in the United States in 1976, that the woman convert be allowed to remain married to her unbelieving husband, Qaradawi, by his own testimony, was among those who had publicly rebuked him.¹³⁹ Eventually, he says, he came to realize that the binding consensus was only on the prohibition of a Muslim woman *getting married* to a non-Muslim, not on what she should do when already married.¹⁴⁰ He had also realized, of course, that there was far greater flexibility on the latter question than even Ibn al-Qayyim was willing to allow. It takes a mujtahid to sort out the proper

¹³⁷ Ibid., 2: 441.

¹³⁸ Ibn al-Qayyim, *Ahkam*, 2: 695.

¹³⁹ Qaradawi, "Islam al-mar'a," 2: 424; idem, *Ibn al-qarya*, 3: 387–8.

¹⁴⁰ Qaradawi, "Islam al-mar'a," 2: 435–6.

view that needs to be adhered to, he says,¹⁴¹ and he clearly believes himself to be well suited to the task.

By example, Qaradawi seeks to show how a present-day mufti ought to act and what sort of ingenuity he should bring to the tradition in rethinking particular norms without yet being unfaithful to it. This demonstration is meant to solve real problems, but perhaps in equal measure, it is also calculated to appeal to segments of a modern-educated audience. That conversion to Islam need not wreck a home is reassuring enough. But some of Qaradawi's language is also calibrated to have the desired impact on particular circles. Citing the aforementioned report about the caliph `Umar giving a woman convert the choice to stay with her husband or to leave him, Qaradawi adds, "This means that he delegated the matter to the *woman's choice* (*annahu wakkala'l-amr ila ikhtiyar al-mar'a*): she could stay with her husband if she wanted and separate from him if she so wished."¹⁴² Leaving aside questions about the authenticity of this report – questions raised in a detailed contribution by the Lebanese scholar Faysal Mawlawi (d. 2011), the vice president of the ECFR at the time – Qaradawi is not saying anything very different from what the report about `Umar already states.¹⁴³ Even so, the evocative language of a woman's choice is clearly intended to resonate with his contemporary audiences. So is the suggestion that, with the help of genuine scholars, women can reclaim the right to make choices that Islam had recognized for them all along.¹⁴⁴

As seen in the misyar fatwa, the rhetoric of choice can have some decidedly mixed results. But appealing as it is intended to be, the position on the woman convert raises some questions of its own. Should it, for instance, guide women in Egypt as well, where Coptic women's conversion to Islam has sometimes led to heightened tensions between Muslims and Copts, with the state "returning" these women to the authority of their church?¹⁴⁵ Would Qaradawi's fatwa mean that such women ought to continue being part of their Coptic households? And in India, would a woman convert to Islam be likewise within her rights to continue living with her Hindu husband?

Qaradawi would surely answer these questions in the negative. Indeed, the fatwa is based on a particular view of the independence of European and, more

¹⁴¹ Cf. *ibid.*, 2: 440.

¹⁴² *Ibid.*, 2: 437. Emphasis added.

¹⁴³ See `Abd al-Razzaq al-San`ani, *al-Musannaf*, ed. Habib al-Rahman al-A'zami (Beirut: al-Maktab al-Islami, 1970–2), 6: 84 (#10083). For Faysal Mawlawi's discussion, see Mawlawi, "Islam al-mar'a wa baqa zawjiha `ala dinihi," *al-Majalla al-`ilmiyya*, 2: 249–308, at 278. For a biographical sketch of Mawlawi, see <http://e-cfr.org/ar/index.php?ArticleID=1033> (accessed August 30, 2010); for an obituary, http://www.iiumsonline.net/index.php?option=com_content&view=article&id=1234:2011 (accessed May 14, 2011).

¹⁴⁴ Cf. Saba Mahmood, *Politics of Piety: The Islamic Revival and the Feminist Subject* (Princeton: Princeton University Press, 2005), 85.

¹⁴⁵ See Jailan Halawi, "Conversion Tensions Strike Again," *Al-Ahram Weekly Online* (<http://weekly.ahram.org.eg>), March 3–9, 2005.

generally, of Western women. The unstated but clearly discernible assumption is that a European woman would be much better able to follow her newfound religion even when married to a non-Muslim spouse than, say, a woman in a more “traditional” Muslim household. In effect, he turns on its head the view that even Muslim men should not marry Jewish and Christian women in Western societies on grounds that, as one fatwa from the influential Saudi Grand Mufti `Abd al-`Aziz bin Baz (d. 1999) had put it, “women in the countries of the *kuffar* [unbelievers] have power and authority and dominate their Muslim husbands . . .”¹⁴⁶ Elsewhere, Qaradawi himself has taken a similar position.¹⁴⁷ Although he does not say this in so many words, it is not hard to conclude that in societies where women are not thought to have the kind of independence for which Western women are known, Qaradawi would concur with the conventional view that the wife’s conversion ends her marriage to her non-Muslim husband.

He would not see this apparent inconsistency as a problem. Islamic law needs to adjust not only to changing times, he says elsewhere, but also to the peculiarities of particular places,¹⁴⁸ which means that what works in Europe need not work in the Arab Middle East or in South Asia. And fatwas are, in any case, geared to specific people, times, and places.¹⁴⁹ This is not a bad answer. The difficulty is, of course, that today’s globalized world, and the very means so dexterously employed by Qaradawi to establish his authority in it, make it very hard to limit the implications of particular positions to specific contexts.¹⁵⁰ It cannot be easy for a mufti to tell educated women that, although a fatwa that can save their marriage does exist, it is only meant for someone else, that women in one society have a legitimate choice in the matter at hand but not those in another.

THE LIMITS OF CONSENSUS

It is unclear if there is much agreement among `ulama on the validity of a misyar marriage, although Qaradawi claims that there is.¹⁵¹ There is, however, much opposition to allowing the woman convert to stay married to her non-Muslim husband. Strikingly, the ECFR itself typifies the disagreement on this issue, despite the fact that it is intended to “produce collective fatwas . . . in light of the shari`a’s rulings and its purposes.”¹⁵² Qaradawi’s statement on the question of the woman convert is a formal fatwa (republished in his own collection of fatwas), though a number of other discussions included in a special issue of the ECFR’s journal

¹⁴⁶ *al-Aqalliyat al-muslima* (Medina: Permanent Committee for Islamic Research and Fatwas, n.d.), 29, #5; quoted in Olivier Roy, *Globalized Islam* (New York: Columbia University Press, 2004), 180, n. 53.

¹⁴⁷ Qaradawi, *Fatawa mu`asira*, 1: 490–505, esp. 504; cf. Rida, *Tafsir al-manar*, 6: 193.

¹⁴⁸ Qaradawi, *Khitabuna al-Islami*, 17–18, 192.

¹⁴⁹ Cf. Qaradawi, *Fiqh al-dawla*, 162.

¹⁵⁰ Cf. Caeiro, “Social Construction,” 371, n.54.

¹⁵¹ Qaradawi, *Fatawa mu`asira*, 3: 308.

¹⁵² European Council of Fatwa and Research, “al-Nizam al-asasi,” article 4.2.

devoted to this subject are perhaps better seen as research papers. The fact remains, in any case, that all but one of the other five contributions take a view opposed to Qaradawi's, though they do not take him on directly.¹⁵³ The concluding statement of the ECFR itself reveals the contention within this body:

... If the wife converts to Islam and her husband continues to profess his faith, then, as the Council sees it:

- i. If her conversion has taken place before the consummation of the marriage, they are to be immediately separated;
- ii. If she converts after consummation but her husband converts before the end of her "waiting period," their marriage continues;¹⁵⁴
- iii. If she converts after consummation and her waiting period has expired, she may wait for his conversion even if that takes a long time. If he does convert, their marriage will continue without any need to renew it;
- iv. If the wife seeks to marry someone other than her husband following the expiry of her waiting period, she must seek a judicial dissolution of her marriage (*faskh al-nikah `an tariq al-qada*).

... According to all four of the [Sunni] schools of law, it is not permitted for the wife to live with her husband after the expiry of her waiting period, or to make herself [sexually] available to him. Some `ulama think, however, that it is permissible for her to live with her husband with full marital rights and obligations, provided doing so does not harm her religion and she retains hopes of his conversion. [This view] seeks to avoid deterring [such] women from becoming Muslims on account of having to leave their husbands and their families. Those holding this view rely on a decision of the Commander of the Faithful `Umar b. al-Khattab ... and an opinion of the Commander of the Faithful `Ali b. Abi Talib ...¹⁵⁵

¹⁵³ The authors of the others fatwas are Dr. `Abdallah b. Yusuf al-Juday` (*al-Majalla al-`ilmiyya*, 2: 15–205); Dr. `Abdallah b. Zubayr (ibid., 2: 211–41); Faysal Mawlawi (ibid., 2: 249–308); Dr. Muhammad `Abd al-Qadir Abu Faris (ibid., 2: 313–408); and Nihat `Abd al-Quddus, a Turkish scholar (ibid., 2: 411–20). al-Juday`, an Iraqi scholar who has served as an imam in Iraq, Kuwait, and elsewhere and as a "shari'a consultant" to an Islamic mosque in Leeds, England, is the only one in this group whose position is in accord with Qaradawi's. For a biographical sketch, see <http://e-cfr.org/ar/index.php?ArticleID=1011> (accessed August 30, 2010). Incidentally, it is not clear if Qaradawi's fatwa was issued as part of this organization's collective deliberation on this issue, or separately. His opening sentence ("The following question has come to me from someone seeking a fatwa ...") suggests the latter possibility (*al-Majalla al-`ilmiyya*, 2: 423).

¹⁵⁴ The "waiting period" (*`idda*) refers to the amount of time a woman must wait after her divorce or the death of her husband before she can remarry. The waiting period is usually reckoned to be three months (three menstrual cycles) following a divorce and four months and ten days following the death of the husband. The waiting period is also relevant to the question of when a divorce takes final effect. The husband must declare his intention to divorce his wife three times. And while the jurists have commonly recognized that a divorce would be irrevocable even if the husband uttered words signifying divorce thrice in the same sitting, they recommend that he do so over the course of three months. Until he has uttered the statement of divorce three times, he retains the right to continue living with his wife.

¹⁵⁵ *al-Majalla al-`ilmiyya*, 2: 446; for the full text of the declaration, ibid., 2: 445–6.

The incoherence of the concluding statement does not reflect well on the ECFR. It does not, however, reflect poorly on Qaradawi himself. For one thing, the very incoherence of the statement underscores his eminent stature: despite the insistence of others that *no* school of law allowed the woman convert to maintain a full conjugal relationship with her non-Muslim husband after the waiting period, Qaradawi was able to make his view a prominent part of the statement. More importantly, he is able to signal to his audiences that he is willing to go much further in safeguarding women's interests than are most other `ulama: the right kind of scholars are still around to address people's needs, and especially those of women, in accord with changing times. Qaradawi's fatwa also illustrates the continuing tension between efforts to institutionalize authority, as seen in Chapter 3, and the `ulama's *individual* claims to authority. Although there is no necessary contradiction between the two, there certainly are tensions. This fatwa points to some of them. Notably, there is the temptation to occasionally break ranks, in the interest of one's own claims to authority, with the very group from which one otherwise derives one's identity and authority. Qaradawi would argue, of course, that it is not his own interests but rather those of present and prospective women converts that are at stake; but it is hard not to notice how this fatwa helps forge a certain authoritative *and* forward-looking image for him, too.

Yet even the ECFR may not have come out too badly after all. It has shown that responsible scholars disagree on contentious questions and that each of them is able to reason in favor of his position. The stakes are high because at issue is not only a pressing question but also the larger problem of whether there is a long-standing juridical consensus on it, and if so, whether it can be set aside. (Qaradawi insists that there is no consensus; Faysal Mawlawi's contention is there *is* a consensus, to which even the Imami Shi'a subscribe, on the prohibition of the woman convert's having sex with her unbelieving husband while she is waiting for him to convert.¹⁵⁶) The ECFR scholars have also shown themselves to be aware of changed times. As Mawlawi notes in his preface to this issue of the ECFR journal, they do recognize that there is a big difference between "earlier societies, in which there was manifest coercion (*al-ikrah*) by the established order on the people and by men on their wives, and the nature of contemporary societies in which individual freedom reigns supreme."¹⁵⁷ Finally, the failure to arrive at a collective fatwa itself serves a useful purpose. To quote Mawlawi again, "despite their conflicting stances, the publication of significant contributions to this topic . . . is intended to stimulate debate on it, in order that [other] scholars can be informed of each view and of

¹⁵⁶ Mawlawi, "Islam al-mar'a," 265–79. The Imami Shi'i source he adduces (*ibid.*, 269, 274 n. 24) is Zayn al-din al-'Amili (*al-shahid al-thani* [d. 1557]), *al-Rawda al-bahiyya fi sharh al-lum`a al-Dimashqiyya*, ed. Sayyid Muhammad Kalantar, 10 vols. 2nd ed. (Tehran: al-Ma'arif al-Islamiyya, n.d.), 5: 230–1. As its title states, this work is a commentary on Muhammad b. Jamal al-din Makki al-'Amili (*al-shahid al-awwal* [d. 1384]), *al-Lum`a al-Dimashqiyya*.

¹⁵⁷ Mawlawi, "Taqqim," in *ibid.*, 9–10, at 10.

the evidence for it. The most correct view may well emerge from this fraternal scholarly dialogue.”¹⁵⁸

The Indian Fiqh Academy was able to produce a rather less contentious final statement on the issues before it than was the ECFR. Even there, however, the appearance of final agreement – on the authority of the legal guardian and on the impermissibility of coercion in marriage – is not quite corroborated by the wide-ranging disagreements to which the academy’s published proceedings themselves testify. There is perhaps greater need for this semblance of agreement in the contemporary Indian context than there might be in Europe or in Muslim cyberspace. But even with the Fiqh Academy, the proceedings and the final declaration are meant as an invitation to further debate among Muslim scholars.



IN THE END, WE ARE LEFT AGAIN WITH SOME KEY TENSIONS. THERE IS, OF course, the ubiquitous tension, felt as much by the ECFR as by the Deobandi scholars of South Asia, between the sanctity of a tradition’s well-established rules and the pressures toward rethinking some of them. Related tensions are regularly exhibited in the mufti’s deciding how to privilege one legal interpretation over another and even in a local imam’s weighing the consequences of agreeing or refusing to go along with particular customary norms. There is also the tension between speaking with institutional authority – the Indian Fiqh Academy or the ECFR – and wishing to be heard in one’s own distinctive voice even as one remains part of particular institutional forums. There is the tension, too, between adopting a contemporary idiom in defense of traditional practices, as we saw in case of Rashid Rida and Qaradawi, and taking positions that do mark a break with long-established norms. An equally significant tension has to do with the very different implications even of a modern-sounding idiom, as seen in Qaradawi’s *misyar* fatwa. Then there is the tension between fatwas tailored to a particular audience – present or potential converts in Western Europe, men and women of the Persian Gulf states – and a worldwide audience to whom such discourses may equally be accessible.

These are significant tensions, though scarcely the only ones, and it is not difficult to see why a broad agreement even of the kind we observed in the previous chapter on the need to bridge the gulf between modern and Islamic learning remains elusive. One way to think about such tensions is again to see them as opening certain spaces in which contentious issues can be addressed at local, regional, and global levels. This is precisely how the ECFR sees it, as indeed does the Indian Fiqh Academy. However, this is not always a very reassuring way of thinking about them. For one thing, some of these tensions are not new. That between the coherence and authority of the tradition and the individual scholar’s initiative in

¹⁵⁸ *Ibid.*, 10.

navigating his way through the various options before him is, for instance, as old as the legal tradition itself. Even the tension between relatively recent expressions of institutionalized authority, such as the Indian Fiqh Academy or the ECFR, and individual claims to authority has echoes of earlier patterns. If such tensions have long been around, there is no particular reason to expect that they can be resolved anytime soon. For another thing, there is no telling how particular tensions do get resolved in their specific contexts. For every imam who is able to take a stand against *vani* in contemporary rural Pakistan, there are probably several others who are willing or feel compelled to go along with it. Local scholars and muftis in India are, for their part, as likely to be guided by the recommendations of the Fiqh Academy as they are to set them aside.

Yet, for all that, the globalized information age in which people discuss and respond to such tensions gives them, and the debate on them, important new dimensions. Though there may be something slightly comical in Rashid Rida's effort to make Islam attractive to an imagined European audience by presenting polygamy as the panacea for Western social ills, the effort itself is very much a product of an early point in globalization.¹⁵⁹ This, after all, is what made it possible for a Syrian émigré in Cairo to be invited by an obscure organization in India to write a book that was to be widely disseminated in Europe and elsewhere. Rida was keenly aware that he needed to write in what Qaradawi would later call the "language of the age," although, in this instance, it did not entail any significant rethinking of the relevant Islamic norms.

Leaving aside their earlier history, the attention custom-based practices receive from journalists and other observers in, say, Pakistan likewise gives them a decidedly new context. Those authorizing such norms have sometimes bitterly lamented this. After reports surfaced in 2008 that five Baloch women had been buried alive for sullyng tribal honor, one senator from the Balochistan province was reported to have defended the action while another blamed the journalists. The incident "pertained to five women," he said in the upper house of the Pakistani parliament. "The media gave the matter such a colour as if heavens have fallen."¹⁶⁰ Needless to say, such remarks were not well received in the national press. In another instance, an imam who had been instrumental in stopping *vani* himself urged journalists that "the issue must not be highlighted in [the] media at [the] national level" on grounds that "the decision was going to be reversed within a week."¹⁶¹ He seems to have been concerned to save the parties involved from embarrassment and perhaps also worried that his own efforts toward obstructing *vani* from taking its course would unravel under the media spotlight. By the same token, it underscores

¹⁵⁹ Cf. Brinkley Messick, "Madhhabs and Modernities" in Peri Bearman et al., eds., *The Islamic School of Law* (Cambridge: Islamic Legal Studies Program, Harvard Law School, 2005), 159–74, esp. 173–4.

¹⁶⁰ Hassan, "Uproar."

¹⁶¹ Manzoor, "Two Girls."

his recognition that such customary practices were no longer a matter only to be handled by local authorities.

It is possible, of course, that *vani*, honor killings, and other such practices have had to be more elaborately covered up than was necessary at an earlier time. In the absence of any reliable data, it is also conceivable that if some people are deterred from such practices for fear of exposure in the media and the likelihood of subsequent prosecution, some others feel *encouraged* to resort to them by reports of their incidence elsewhere. The effects of such reporting can, in any case, go in quite different directions. There are news stories not only about honor killings but also about how some of these murders were successfully thwarted – by the police, by the local people, by the intended victim herself. In one instance, the rescued target made additional news by declaring her intention to join the police force, presumably as a way of helping put an end to such practices wherever she could.¹⁶² In contemporary India, reports that Muslim women had been coerced into marriage under threat of bodily harm would obviously make for very bad publicity, and as noted earlier, this surely is a good part of what accounts for the Indian Fiqh Academy's interest in rethinking the Hanafi rules on the matter.

The press has come to have other uses, too. Small town Sindhi women have published sworn affidavits in the local Sindhi press, clarifying that they were marrying of their own accord so that they are not accused of sexual impropriety. In one such announcement, a woman stated that

her parents wanted to sell her to an older man for marriage [whereupon] . . . she decided to run away and marry another man . . . in accordance with Islamic law. [N]o one ha[d] kidnapped her and she [was] . . . making the declaration as an adult in full possession of her senses. In case her parents register[ed] a case against her, her husband or his parents, it should be considered fake.¹⁶³

Local police officials have sometimes colluded in returning these women to their natal families. The fact, however, that some local newspapers have regularly published such announcements suggests that, in collaboration with the lawyers who draft the affidavits, they are perceived to offer some hope of protection against violence. Nonetheless, as a women's rights activist observed, "using the media is a double-edged sword for the women of Sindh; the same declaration that can save them from honour killings can also leave them vulnerable to even more angry reprisals."¹⁶⁴



WHAT THE `ULAMA THINK ABOUT PARTICULAR ISSUES, RELATING TO WOMEN or to anything else, is just one part of a large and messy picture. The media, as

¹⁶² M. B. Kalhoro, "Woman Who Defied 'Kari' Death Wants to Join Police," *Dawn*, July 14, 2010. Also see M. B. Kalhoro, "Woman Saved by Villagers, Police from 'Kari' Death," *Dawn*, July 13, 2010.

¹⁶³ Sohail Sangi, "Sindhi Women Publicly Announce Free-Will Marriages," *Dawn*, September 3, 2011.

¹⁶⁴ *Ibid.*

suggested by the foregoing examples, is an increasingly influential part as well, and so are governmental agencies, the courts, the international community, and, of course, the ordinary women and men at the center of the stories and the debates we have encountered in this chapter. But even as part of this larger picture, it should be clear from the foregoing that the `ulama themselves bring distinctly different hues to it. Many remain unconvinced that any significant accommodation to modern needs is required so far as the position of women is concerned. They also insist that if any adjustment in legal norms is to be countenanced, it must come not from the modernizing governing elite or in reaction to embarrassing news reports but from within the ranks of the `ulama and without its terms or pace being dictated from outside. Others do not simply sense but explicitly acknowledge the need for change, although whether this means a change in idiom alone or a substantive rethinking of particular norms as well varies from one instance to another. Such differences – large and small, acknowledged and unacknowledged – point to ongoing contestations that center on women even as they go well beyond questions specific to them. They also suggest that what one scholar, or community of scholars, would see as an impediment to, or an argument against, reform is not necessarily seen as such by fellow scholars. This obviously leaves considerable room not just for contestation but also for uncertainty. Paradoxically, it is precisely this messiness of competing possibilities that allows for the `ulama's agency in negotiating tradition, for instance, by way of endorsing or sidestepping particular positions. But it also continues to limit the prospects for significant change within their ranks, at least without some external pressure. As suggested by the background to Thanawi's initiative, that pressure need not come from a mighty empire. "Powerless wives," to adapt the title of his treatise, might be equally efficacious.



Socioeconomic Justice

ONE MIGHT WELL EXPECT A GOOD DEAL OF CONCORD BETWEEN socioeconomic justice, the subject of this chapter, and social justice as it relates to women. However, the relationship between them is unpredictable and sometimes in quite considerable tension. By far the most striking illustration of this is provided by the Taliban of Afghanistan and their “neo-Taliban” successors in contemporary Pakistan. Even as they have instituted stringently repressive gender norms and destroyed scores of schools for girls in different parts of the Khyber Pakhtunkhwa province (or the Frontier, as I frequently refer to it in evoking its previous name), the Pakistani Taliban have sometimes positioned themselves in their particular locales as representing the interests of the poorer segments of society. Some have explicitly used the language and the imagery of social justice.¹ As Mangal Bagh, the leader of a militant group active near the Afghanistan border, put it in 2008 in justifying his actions and highlighting the failures of the state, he and his followers had “taken [up] the responsibility for ensuring social justice . . . [though this] should have been the prime concern of the political authorities in the tribal territory.”² At the same time, the Taliban and those allied with them have targeted the local elite that they deem oppressive, pro-government, and insufficiently committed to the shari`a. According to one 2008 estimate, more than 500 “tribal elders” – headmen, landlords, and other locally influential people – had been killed since 2004 in the tribal areas of the Frontier.³ Others have continued to fall prey to the Taliban elsewhere in the province.

¹ For instance, on occasion, the Taliban have warned shopkeepers against profiteering from the sale of food items: “Militants Warn Vendors to Cut Prices,” *Dawn*, August 28, 2009.

² “Mangal Bagh Extends ‘Control’ to Landikotal,” *The News* (Islamabad), August 29, 2008. As he put it on another occasion, “I’m not the ruler of Khyber [a region in the Khyber Pakhtunkhwa province] but the servant of the people.” Quoted in Massoud Ansari, “In the Eye of the Storm – at the Moment,” *The Herald* (Karachi), August 2008: 30. Cf. Anatol Lieven, *Pakistan: A Hard Country* (New York: Public Affairs, 2011), 431–2. For what it is worth, it should be noted that, although he has operated much like the various neo-Taliban groups in the province and is said to have ties with them, Mangal Bagh is not formally a member of their umbrella organization, the Tahrir-i Taliban Pakistan (Ansari, “In the Eye of the Storm,” 32).

³ See Jane Perlez and Pir Zubair Shah, “Pakistan Uses Tribal Militias in Tribal War,” *The New York Times*, October 24, 2008. According to another 2008 estimate, “in South Waziristan [one of the principal centers of the insurgency], the Taliban and Al Qaeda [had] killed more than 150 maliks [i.e., tribal leaders] since 2005, all but destroying the tribal system.” Dexter

The Robin Hood-like actions of some Taliban leaders have generated a small debate in the Pakistani press on whether issues of socioeconomic justice do, indeed, account for the Taliban's ability to entrench themselves in parts of the Frontier. One school of thought has argued that the grinding poverty afflicting large numbers of people, the lack of adequate avenues in some regions for the settlement of legal disputes, and the long-standing hold of tribal chiefs and landowners on the lives of disenfranchised peasants and laborers have all helped Taliban recruitment and that unless the government takes serious, long-term measures for the economic and social uplift of these areas, the challenge of the Taliban will not be effectively countered.⁴ Indeed, some analysts have warned that movements similar to those of the Taliban and groups allied with them might emerge elsewhere in the country, notably in southern Punjab with its large landholdings and its "feudal lifestyle."⁵ Another school of thought acknowledges the socioeconomic misery of the people in what have emerged as major sites of militant insurgency as well as the inability of successive Pakistani governments to provide basic services to countless citizens. But it insists that the rise of the neo-Taliban has little to do with the promise of economic relief. On this view, when the properties of many a tribal chief have been expropriated by the Taliban, it is the latter themselves, rather than ordinary impoverished people, who have benefited from such acts.⁶ From this perspective, the Taliban are better seen as the new face of organized crime, complete with extortion, robberies, kidnappings for ransom, and targeted killings, rather than a reaction to socioeconomic misery, let alone as a social movement aimed at improving the lot of the poor.⁷ Clearly, then, and like much else about the Pakistani Taliban, the precise connection between local socioeconomic grievances and the rise of these militant groups remains a matter of considerable uncertainty. Even so, in a country where nearly a third of the entire population is believed to live

Filkins, "Talibanistan: A Journey into Pakistan's Tribal Areas," *The New York Times Magazine*, September 7, 2008, 54–61, 114–16, at 61. In establishing the North-West Frontier Province in 1901, colonial administrators had divided the region into "administered" and "tribal" areas, each with its own regulations. This division has continued into the present. See Haroon, *Frontier of Faith*, 5–31.

⁴ E.g., Rahimullah Yusufzai, "Time to Rethink Swat," *The News*, October 4, 2008. Also see Jane Perlez and Pir Zubair Shah, "Taliban Enlist an Army of Pakistan's Have-Nots," *The New York Times*, April 17, 2009; idem, "Economic Pillar in Pakistan Area is among Missing: Landowners Stay Out," *The New York Times*, July 28, 2009: A1; Asif Ezdi, "Stop This March of Folly," *The News*, June 20, 2009.

⁵ Ayesha Siddiqua, "Deadly Social Change," *Dawn* (Karachi), May 1, 2009. Also see the confidential U.S. embassy cable from Islamabad, "Southern Punjab Extremism Battle between Haves and Have-nots" (#230969, October 23, 2009); and U.S. consulate cable from Lahore, "Extremist Recruitment on the Rise in Southern Punjab" (#178082, November 13, 2008).

⁶ Tariq Rahman, "Injustice and Talibanisation," *Dawn*, April 30, 2009. Cf. *Dawn*, March 14, 2010 ("Wife of TTP's Spokesman Held in Bajaur").

⁷ Cf. Sabrina Tavernise, "Taliban Seize on Organized Crime for Fast Cash in Pakistan," *The New York Times*, August 29, 2009. The international press, notably *The New York Times*, has published news reports that lend credence to the views of both schools of thought.

in poverty,⁸ and where even some high-ranking government officials – notably, the current chief minister of Punjab, Shahbaz Sharif – have sometimes warned of a “bloody revolution” unless wide-ranging systemic changes are brought about,⁹ appeals to social and economic justice, howsoever opportunistic and incoherent, are not without resonance.

My concern in this chapter is not with the Taliban, however, although we will occasionally come across them in the course of the following discussion. Nor is it with the tension between social justice as it relates to women and socioeconomic justice, although I will touch upon this, too. It is rather with explicating an important facet of the `ulama’s social thought and, by the same token, of their internal criticism. This aspect of their thought has been little studied, and one of my goals is to draw attention to it, especially with reference to the Deobandis, and to place it in its varied contexts. My second concern here is to examine some of the contestation among the `ulama on questions of socioeconomic justice. This is not the kind of violent conflict that has unfolded – if that, indeed, is what it is – between “haves” and “have-nots” in the Frontier. Rather, it has taken the form of a sustained critique, by segments of the `ulama, of inequalities in their societies, together with their efforts to remedy them. Often implicitly, though sometimes explicitly as well, the objects of this critique have included fellow `ulama deemed wanting in their social commitments. For their part, the latter have had grave misgivings about discourses on socioeconomic justice. It would be too simple to view this contestation as reducible to those challenging entrenched privilege and those defending it. Nor is there any compelling reason to suppose that those suspicious of discourses on socioeconomic justice are necessarily less adept at understanding the changing world in which they find themselves than are their critics. Rather, and as so often, the contestation is about competing understandings of Islam itself and, more specifically, about whether any significant reorientation of the tradition is called for and, if so, in what direction. Some of it is also about the bases on which the `ulama’s moral authority rests.

‘UBAYD ALLAH SINDHI: A “QUR’ANIC REVOLUTION”

It will be recalled that by the time Sindhi returned to India in 1939 after a quarter century of exile in Afghanistan, Russia, Turkey, and the Hijaz, he was convinced that the interests of his Muslim countrymen were best served by forging a sense of an *Indian* Islamic identity rather than by continually looking to Muslims elsewhere for cultural authenticity and religious leadership. Concomitantly, he had come

⁸ In the tribal areas of Khyber Pakhtunkhwa, more than 65 percent of the people are believed to live in poverty, with a per capita income “half the national average of US\$500.” “Forwards in FATA,” *The News*, August 15, 2009.

⁹ “Narm inqilab se nizam na badla to khuni inqilab a kar rahe ga,” *Express* (Lahore), August 10, 2009. Also see *Dawn*, March 15, 2010 (“CM Shahbaz Wants Taliban to Spare Punjab”).

to believe that the Muslims of India ought to develop stronger ties with other inhabitants of the country. The basis on which such ties ought to rest was, he believed, their shared economic interest.

Though he had lived in the Soviet Union for only seven months in 1923, Sindhi was deeply influenced by his interaction with Soviet officials. Socialist motifs had also been prominent in the rhetoric of Mustafa Kemal during the Turkish war of independence,¹⁰ and Sindhi's arrival in Turkey in 1923 and his three-year stay there probably contributed something to his social thought. He would continue to keenly observe socialist trends in Europe during his long years in the Hijaz.¹¹ The centrality of socioeconomic concerns in Sindhi's thought surely also had to do with his very humble background; he would struggle with financial difficulties all his life. His long association with the left-leaning Indian National Congress likewise informed his engagement with issues of social justice. To Sindhi himself, the decisive factor in shaping all his thought, including his socioeconomic concerns, was, however, the work of Shah Wali Allah, which he had studied in great depth during his years in Mecca.

According to Sindhi, a society (*ijtima`*) founded on an ideology (*nazariyya*) is prone to decline and degeneration for two fundamental reasons. The first of these is the concentration of wealth in the hands of a small elite and the gradual impoverishment of the masses. In such circumstances, the elite's enjoining the poor to live up to the community's ideals is of no avail, for ordinary people are so caught up in making ends meet that they have no opportunity to attend to their moral or religious development. The second factor leading to societal decline has to do with the exclusion of all but the elite from the sort of knowledge that is valued in that society. Such exclusion leads, Sindhi argues, to doubts among ordinary people about the moral foundations on which the community supposedly rests.¹² Sindhi's analysis is guided here by a well-known passage in Wali Allah's classic, *Hujjat Allah al-baligha*, which speaks of the degenerate lifestyle of the pre-Islamic Persian and Byzantine ruling elite:

The Persians and the Byzantines . . . had become deeply involved in life's comforts, and they prided themselves on these. Scholars traveled to them from far horizons to discover from them the fine arts of living and its comforts. Thus they continued to practice them, and some of them became more excessive in them than others and they

¹⁰ M. Şükrü Hanioglu, *Atatürk: An Intellectual Biography* (Princeton: Princeton University Press, 2011), 86–128.

¹¹ Colonial intelligence had initially suspected that Sindhi had arrived in the Hijaz "as a Bolshevik agent." See David Petrie, *Communism in India 1924–1927* (Calcutta: Government of India Press, 1927 [in L/P&J/12/668 {IPI-6}]); edited, with original pagination, by Mahadevapradas Saha, Calcutta: Editions Indian, 1972), 201. However, there is no evidence to suggest that he was working for the Bolsheviks, and subsequent British intelligence on him makes no attempt to substantiate this claim. Cf. "Jedda Report for March and April 1931" in A. Ryan to A. Henderson, May 29, 1931 (Confidential Print: Middle East).

¹² Sindhi, *Shu`ur*, 126–8.

showed off to one another in this regard, until it was said that they used to rebuke those of their leaders who wore a girdle or a crown whose value was less than a hundred thousand dirhems The citation of these would take a long time, and what you see with your own eyes of the conditions of kings of your countries makes recounting these unnecessary for you. All of this had penetrated the foundations of their way of life, and could not be removed from their hearts even if they were cut to pieces. Due to this an incurable disease was engendered in all of the parts of the polity, and a great calamity. Not one remained of their markets or villages, nor their rich or their poor, who had not been overwhelmed, dominated, and weakened by it, and in whom it had not provoked sorrows and anxieties without limits. This is because these things are not obtained without significant expenditure of wealth, and such wealth is only acquired through multiplying the taxes on the peasants, merchants, and their like, and oppressing them, so that if they refuse, they fight them and torture them, and if they obey *they became like donkeys and cattle which are used in irrigating, threshing and harvesting, and which are only procured in order to fulfill their masters' needs. Therefore these people were not given an hour free from hardship until they got to the point where they did not give any of their attention to the felicity of the world to come, and they had become incapable of this.*¹³

Wali Allah's concern in this passage was to illustrate the sort of practices a prophet abolishes as part of his reformist project.¹⁴ But some twentieth-century scholars have seen more in it than that, taking it instead as an instance of Wali Allah's social critique. I will come to the question of the fidelity of such scholars to Wali Allah's thought in due course. For now, we should note that Sindhi rails often in his discourses against the dual oppression of the capitalists and the religious elite ("Brahmanism"), and he sees their alliance as being at the heart of much economic misery.¹⁵ The capitalists are sometimes also referred to as the "imperialists,"¹⁶ which, of course, is in line with his solid anti-imperialist credentials. As for his criticism of the religious elite, it is not limited to the `ulama. Scholars in other traditions are equally culpable for their "intellectual capitalism," by which he means not only their placing limits on people's access to religious knowledge or a concomitant desire to maintain their own privileged position through such knowledge but also their failure to address the economic concerns of ordinary people. Sindhi had no doubt that, properly understood, all religious traditions are deeply concerned with economic issues. And, on his return to India, he urged Hindu, Muslim, and Sikh scholars to devote themselves to demonstrating the

¹³ Wali Allah, *Hujjat Allah*, 1: 105–6; translation as in Hermansen, *Conclusive Argument*, 306–7 (with minor modification).

¹⁴ His point here is that divine law typically does not institute its regulations de novo: what it stipulates is often based on people's prior practices. The prophet might reinstitute these in ways that are attentive to their underlying salutary purposes, although he also abolishes norms that have become thoroughly corrupt. Sindhi referred often to this passage; the lines in italics are the ones quoted by him in *Shu`ur*, 127.

¹⁵ See, for example, Sindhi, *Shu`ur*, 126–8, 329.

¹⁶ *Ibid.*, 363–4.

accord between “the spirit or philosophy of their religion and European economic thought,”¹⁷ by which he evidently meant socialism.

In the years immediately preceding his death, a good part of Sindhi’s own considerable energies was spent on explicating the social and economic teachings of the Qur’an. As seen in [Chapter 2](#), he believed that the Qur’an’s teachings were, in essence, shared by people belonging to different religious persuasions, with the obvious implication that they should attend not just to their own traditions but also to the Qur’an *and* that someone ought to make the latter intelligible to them. It was to fellow Muslims that he addressed himself in the first instance, however. In a paradox that he shares with some leading Islamists – notably Sayyid Qutb (d. 1966) of Egypt and Sayyid Abu’l-A`la Mawdudi (d. 1979) of Pakistan – who have insisted on the need for all believers to approach the Qur’an directly and then proceeded to write elaborate commentaries on it, Sindhi, too, wrote more than one exegetical work on the Qur’an. The first, a partial commentary on the early chapters of the Qur’an, is based on his lectures in Mecca as recorded by the Tatar modernist scholar, Jar Allah Bigiyef (d. 1949). Another work comprises Sindhi’s commentary, after his return from exile, on select chapters of the Qur’an with a view to providing a model to fellow Muslims on how to understand the Islamic foundational text.¹⁸ Social and economic concerns and, indeed, a call for radical socioeconomic change in light of the Qur’an’s teachings – a “Qur’anic revolution” – are at the heart of this latter work, and it is on this that I will primarily focus here.

Justice (*‘adl*) is foremost among the norms Sindhi finds in the Qur’an.¹⁹ In fact, the idea of justice is taken to be constitutive of *taqwa* itself, a central Qur’anic idea often translated as “the fear of God.”²⁰ Establishing justice in society means, inter alia, removing inequalities and providing for the poor and the unprivileged. The rich will be questioned on the Day of Judgment for how they conducted themselves in the world.²¹ At that time, people will experience the consequences of their actions: a miser who had seen a person starving but had done nothing to help him will undergo the latter’s suffering on that day.²² Yet such reckoning is obviously not to be deferred only to the hereafter. A government guided by Qur’anic norms is equally obligated to rein in the rich and mighty, and a central concern of such a government would be to serve the interests of the poor.²³ To this

¹⁷ Sindhi, Presidential address at a conference of the `ulama of Bengal, Calcutta, June 3, 1939, in Sindhi, *Khutbat*, 90.

¹⁸ Sindhi, *Shu`ur*. Yet another Urdu commentary, compiled by `Abd Allah Laghari and also based on Sindhi’s lectures in Mecca, has been published as *Tafsir al-maqam al-mahmud*, ed. Mufti `Abd al-Qadir, vol. 1 (Lahore: Makki Dar al-kutub, 1997; as far as I am aware, only the first volume of this work is available in print).

¹⁹ Sindhi, *Shu`ur*, 146.

²⁰ *Ibid.*, 399. Sindhi follows the famous Sufi saint `Abd al-Qadir Jilani (d. 1166) in making this point.

²¹ *Ibid.*, 332ff.

²² `Ubayd Allah Sindhi, *Urdu sharh-i Hujjat Allah al-baligha* (Lahore: Maktaba-i bayt al-hikma, 1950), 391–2, commenting on Wali Allah, *Hujjat Allah*, 1: 37.

²³ Sindhi, *Shu`ur*, 348.

end, the government has the right to impose whatever taxes it sees as necessary beyond the zakat, which all Muslims of means are required to pay annually and which is one of the five pillars of the faith (alongside the profession of belief, prayer, fasting, and Hajj).²⁴ Helping the poor, either individually or by way of a government guided by Qur'anic norms, is not, however, a matter of maintaining an army of beggars. Rather, as Sindhi envisions it, the poor ought to be provided with education and means of livelihood so that they, and all others, can become productive members of society.²⁵

All this has a strong socialist ring to it, and Sindhi has, indeed, often been characterized as a socialist.²⁶ He would not have disdained the label, except in cautioning against the atheism with which socialism was often intertwined. His reading of the Qur'an and his understanding of the work of Wali Allah seemed to him to offer ways of combining an engagement with the socioeconomic uplift of the impoverished masses with ethical norms derived from religion, and it is this combination that he wanted to impart to his audiences. This was not just a strategic choice, driven by the conviction that a reformist program divorced from religion would not succeed in the Indian context. Underlying it was also his belief that the love of God offered the surest basis for the love of God's creatures.²⁷

Even after his return to India, a much-mellowed Sindhi continued to speak of the need for a revolution. His commentaries on select chapters of the Qur'an were published around the time of his death as separate tracts and each contains the word "revolution" (*inqilab*) in the title.²⁸ Though discourses on violence will be examined more fully in the next chapter, it is worth asking what place it had in Sindhi's conception of a social revolution. As will be recalled, he had explicitly affirmed the Gandhian principle of nonviolence prior to his return to India and, for all his disagreements with Gandhi,²⁹ he never renounced it. Yet, in one of his many contradictions, he never quite disavowed the necessity of resorting to violent means in pursuit of particular goals either. And colonial British intelligence would continue to view him with considerable misgivings.³⁰

In his Qur'anic discourses, Sindhi laments the apologetic stance Muslim modernists tended to assume on matters of jihad.³¹ He is equally critical of those `ulama and Sufis who had turned Islam into a set of rituals and who fervently refused to take the path of war when circumstances demanded that course. To Sindhi, Islam

²⁴ Ibid., 355–6; cf. *ibid.*, 299. On zakat, and the juristic disagreement on whether people of means owe anything on their property beyond it, see *E I*, s.v. "Zakat" (by A. Zysow).

²⁵ Sindhi, *Shu`ur*, 394.

²⁶ See, for instance, Ahmad, *Islamic Modernism*, 195–201.

²⁷ Sindhi, *Shu`ur*, 549. For his rejection of the "socialists' irreligion," see also *Khutbat*, 135.

²⁸ These tracts are now gathered in Sindhi, *Shu`ur*.

²⁹ See n. 42.

³⁰ See note from Intelligence Bureau, March 23, 1939: 2–3 in L/P&J/12/123; also see the memo marked P&J (S) 1259, September 8, 1939 in L/P&J/12/123 (IPI-15).

³¹ Sindhi, *Shu`ur*, 424–5.

does not advocate needless war but, when circumstances so require, it does not shy away from it either:

In the view of the Qur'an, the ultimate purpose of fighting is not war but rather to end injustice (*zulm*). Such injustice might be ended through war or by bringing war to an end. If it is feared that war will increase injustice, then war must be brought to an end; if injustice can be ended through peace, then one enters into peace, even if that means doing so on unfavorable terms.³²

One of Sindhi's most striking formulations on the question of jihad occurs in the course of his commentary on chapter 47 (titled "Muhammad") of the Qur'an, where it takes the form of a somewhat cryptic reference to the *Ahkam al-Qur'an* of the famous Hanafi jurist al-Jassas (d. 981). Referring to his discussion of the Qur'anic imperative to "command right and forbid wrong," Sindhi notes that Jassas has explicated this Qur'anic injunction and the concept of jihad in a "most satisfactory manner, which is sufficient for us. For he has preserved the revolutionary spirit [of these ideas] in accordance with the way of Abu Hanifa." He continues: "After the publication of this book, it is hard to see that the Hanafis have any excuse to stay away from the revolutionary movement of the Qur'an."³³ The reference to Abu Hanifa, the eponymous founder of the Hanafi school of law, is meant to evoke his well-known support for the principle of forbidding wrong, though a story Jassas tells in this regard suggests that Abu Hanifa had strong reservations about recklessly endangering one's life in the process.³⁴ Jassas himself was, in any case, a sharp critic of those quietist scholars who held that one should not take up arms in forbidding wrong and that one must never oppose a wrongdoing ruler.³⁵ He argued that if reprimanding a wrongdoer with words or physically restraining him from his evil deeds was ineffectual, it was permissible to kill him. Jassas's examples of such wrongdoers included someone intent on murder, robbery, or unlawful sex. Remarkably, he had also listed in this category those collecting unjust taxes and oppressing people in the course of doing so. Such unjust tax collectors, too, ought to be killed, although it was permissible not to do so if one's own life was likely to be lost in the effort.³⁶ Jassas's *Ahkam al-Qur'an* was first published from

³² Ibid., 572, commenting on chapter 48 of the Qur'an, which refers to the truce of Hudaibiyya (628 CE), an agreement between the Prophet Muhammad and his followers, on the one hand, and Meccan polytheists, on the other. On the face of it, the terms of this truce were distinctly favorable toward the Meccans; however, the Muslims turned out to be the winning side in the end. On the connotations of the evocative Qur'anic term *zulm*, see Toshihiko Izutsu, *Ethico-Religious Concepts in the Qur'an* (Montreal: McGill-Queen's University Press, 2002), 164–72.

³³ Sindhi, *Shu'ur*, 473–4.

³⁴ Abu Bakr Ahmad ibn 'Ali al-Razi al-Jassas, *Ahkam al-Qur'an*, 3 vols. (Beirut: Dar al-kitab al-'Arabi, n.d. [1971; a reprint of the Istanbul 1916–20 edition]), 2: 33; Michael Cook, *Commanding Right and Forbidding Wrong in Islamic Thought* (Cambridge: Cambridge University Press, 2000), 3–10.

³⁵ al-Jassas, *Ahkam al-Qur'an*, 2: 34.

³⁶ Ibid., 2: 31–2. For a discussion of these passages, see Cook, *Commanding Right*, 334–8. Cook takes Jassas's advocacy of taking up arms against wrongdoers as evidence of his Mu'tazilite leanings.

Istanbul between 1916 and 1920. Elsewhere in his commentary, Sindhi expresses regret that his mentor, Mahmud Hasan (d. 1920), did not have access to this work when exhorting people to jihad. For with such a proof text, “no member of our Deobandi community would have stayed behind unless he was an obvious hypocrite.”³⁷

Jassas’s position, as rather vaguely adduced by Sindhi, was an unusual one among the medieval Hanafis. The Deobandis were considerably more discriminating in following earlier Hanafi authorities than Sindhi’s polemical remarks suggest, however, and it is unlikely that they would have followed Jassas even if he had represented the Hanafi mainstream. The manner in which Sindhi refers to Jassas in the course of his Qur’an commentary suggests that his purpose was to draw it to the attention of fellow scholars rather than to expound on it for the benefit of ordinary believers. It was evidently also meant to castigate Deobandi quietists such as Ashraf `Ali Thanawi.³⁸ The opaqueness of his allusions – and the somewhat inconsistent views on the matter attributed to Abu Hanifa himself³⁹ – suggest, however, that Sindhi wanted to continue treading the sometimes indistinct path between violence and nonviolence.

Besides the question of violence, the sort of government Sindhi had in mind also deserves a brief comment. In the Qur’an commentaries dating from his years in Mecca, Sindhi sometimes refers to the need for a government that would ensure the implementation of Islamic law⁴⁰ and criticizes those “who are knowledgeable about their religion but do not want the establishment of a government in accordance with it.”⁴¹ For the most part, however, and especially after his return to India, he advocated an alliance between Muslims and other inhabitants of India. He envisaged a confederation in which the constituent members would be largely autonomous to govern their affairs and whose overall framework would rest on secular and democratic rather than religious principles and be geared to economic advancement. The Indian National Congress seemed to him best suited to guide people toward such a confederation. While professing Gandhian nonviolence, he was highly critical of Gandhi precisely for his strong religious idiom, which he saw as undermining the Congress’s secular commitments.⁴² Yet, in

³⁷ Sindhi, *Shu`ur*, 565.

³⁸ Cf. Sindhi, *Tahrir*, 146–7 (and the footnotes on those pages), 150; idem, *Ilham*, 140 (without naming names). Also see Chapter 8.

³⁹ While opposed to endangering one’s life in forbidding wrong, Abu Hanifa is reported nonetheless to have been in favor of countering wrongdoing not just through verbal admonition but also by the sword and to have upheld the legality of fighting unjust and oppressive rulers. al-Jassas, *Ahkam*, 1: 70; Cook, *Commanding Right*, 335.

⁴⁰ Sindhi, *Tafsir al-maqam al-mahmud*, 429, 454–5.

⁴¹ Sindhi, *Ilham*, 140.

⁴² For Sindhi’s endorsement of democracy, see *Khutbat*, 132; idem, *Shu`ur*, 500. Cf. *ibid.*, 364, 582, on the idea that a ruler’s consulting with his advisors is binding rather than merely recommended (he follows the Hanafi jurist Jassas here). Idem, *Ilham*, 210–11, for his criticism of those wedded to the

a contradiction that remained unresolved, Sindhi's own thought and language were suffused with the Qur'an, as he understood it. Though he never abandoned his conviction that a just socioeconomic and political order needed to be universal in scope, it is to the Qur'an that he continued to look for its underpinnings.

ʿABD AL-RAHIM POPALZAI: PEASANT ACTIVISM

For all his concern with the interests of the peasants and the laborers and with resisting injustice and oppression, Sindhi disavowed any intention of pitting the peasant against the landlord (*zamindar*).⁴³ In this as in several other respects, he stands in some contrast with a fellow Deobandi, ʿAbd al-Rahim Popalzai.

ʿAbd al-Rahim was born in Peshawar in 1892 to a family of religious notables. His father, ʿAbd al-Hakim (d. 1929), had studied at Deoband, was an influential Sufi and scholar of the then North-West Frontier Province and, during the Khilafat Movement in the aftermath of the Great War, had served as the president of the province's Khilafat Committee.⁴⁴ He had come to be known as "the Frontier Mufti" (*mufti-yi sarhad*), a title that his son inherited. ʿAbd al-Rahim, too, was educated at Deoband, where he had studied with the revered Mahmud Hasan and from where he graduated in 1912. In the years following the end of the Khilafat Movement, in which he had participated alongside his father, ʿAbd al-Rahim – hereafter Popalzai – turned to politics of a more radical sort. A militant socialist organization named the Naujawan Bharat Sabha had been founded in the Punjab with the aim of improving both the lot of the poor and of subverting colonial rule through all means, including the resort to violence.⁴⁵ Members of this organization were highly critical of the style of politics associated with the Indian National Congress and especially with Gandhi, seeking more radical solutions to the economic and political problems of India than the Congress offered. Popalzai was among the founding members of the Frontier wing of this organization. He was also associated with the Frontier Congress Socialist Party, which was established in Peshawar in 1935. He died in 1944.

notion that the Qur'an seeks to establish an Islamic imperium. (For comments critical of Western democracy, see, however, *Tafsir al-maqam al-mahmud*, 456; *Shu'ur*, 450.) As for Sindhi's support for secularism, see *Khutbat*, 129–30; on the Congress, *ibid.*, 88–9; on Gandhi, see Sarwar, *Ifadat*, 115–6; cf. *Khutbat*, 89–90. On the religious idiom of Gandhi and the Congress, see William Gould, *Hindu Nationalism and the Language of Politics in Late Colonial India* (Cambridge: Cambridge University Press, 2004).

⁴³ Sindhi, *Khutbat*, 148–9 (address in Hyderabad, Sindh, to madrasa students, April 17, 1944).

⁴⁴ Muhammad Amir Shah Qadiri, *Tazkira-i ʿulama wa mashayikh-i sarhad* (Peshawar: ʿAzim Publishing House, n.d.), 234–8.

⁴⁵ On this organization, see Shalini Sharma, "Developing a Communist Identity: The Case of the Naujawan Bharat Sabha," *Journal of Punjab Studies* 14 (2007): 167–86. Also see Bipan Chandra, "The Ideological Development of the Revolutionary Terrorists in Northern India in the 1920s," in B. R. Nanda, ed., *Socialism in India* (Delhi: Vikas Publications, 1972), 163–89.

The Naujawan Bharat Sabha was not only explicitly secular in orientation; many of its college- and university-educated members were hostile to religious allegiances. Popalzai, however, combined a leadership position in this organization with multiple claims to religious authority. Like Sindhi, he was devoted to the memory of Deoband's Mahmud Hasan, and he, too, traced his intellectual genealogy to Shah Wali Allah. He had studied with a student of Fazl al-Haqq Khayrabadi (d. 1861), a scholar as famous for his learning in the Islamic rationalist sciences as for his persecution by the British. Popalzai also counted in his spiritual genealogy a famous Pashtun holy man, Mulla Najm al-din of Hadda (popularly known as Hadda Mulla or Hadda Sahib), who had led an unsuccessful insurrection against the British in 1897.⁴⁶ Khayrabadi, Hadda Sahib, and Mahmud Hasan all had strong anti-colonial credentials, and it is scarcely surprising for Popalzai to have invoked their combined religiopolitical legacy in charting his own path. Putting this legacy in the service of an explicitly socialist cause was decidedly more unusual, though he appears to have done so without any obvious sense of discomfort.

Popalzai envisioned a revolution that would rectify the exploitative economic structures prevalent in India. Even as he endorsed socialist ideals, however, he was uncomfortable with what he saw as the lack of an ethical and moral foundation to a socialist system.⁴⁷ Much like Sindhi, he believed that such a foundation could be provided by Islam and by religion in general. But Islam needed to be reimaged to fit the role. To the `ulama, his counsel was that if they wanted to defend Islam, they ought to pave the way toward a socioeconomic revolution in its terms. As explained by his onetime collaborator and later biographer, `Umar Faruq Khan, this meant finding solutions to the contradictions of economic relations in light of the teachings of Islam and addressing the problems faced by the people with reference to those teachings.⁴⁸ It also meant showing that contemporary forms of large landholdings were illegitimate in Islamic terms, that economic resources were intended for the common good and could therefore be brought under government regulation, and that a capitalist system did not provide an acceptable foundation for human society.⁴⁹ True Islam, Popalzai believed, was in accord with such ideas. In the course of its evolution, the teachings of Islam, like those of other religions, had come to acquire facets that contravened its basic principles. The challenge facing Muslims was to separate these accretions from the fundamental

⁴⁶ For Popalzai's invocation of Mahmud Hasan, Khayrabadi, and Hadda Sahib, see `Umar Faruq Khan, *Ishtiraki `alim-i rabbani: Mawlana `Abd al-Rahim Popalzai* (Lahore: Sindh Sagar Academy, 1970), 14–15. On Hadda Mulla, see Edwards, *Heroes*, 126–219. On Khayrabadi, see Jamal Malik, "Letters, Prison Sketches and Autobiographical Literature: The Case of Fadl-e Haqq Khairabadi in the Andaman Penal Colony," *The Indian Economic and Social History Review* 43 (2006): 77–100.

⁴⁷ Faruq Khan, *Ishtiraki `alim*, 47–56.

⁴⁸ *Ibid.*, 42–3.

⁴⁹ *Ibid.*, 43.

principles of their religion, much like Shah Wali Allah had done in the eighteenth century.⁵⁰

Unlike Sindhi, who has left behind a substantial corpus of writings, Popalzai's own interests were not in an intellectual reformulation of Islam but rather in grassroots activism, especially as it related to peasants in his province. Two instances of his social activism are worth noting here. The first relates to peasant unrest in Ghalla Dher in 1938, a village in the Mardan district of the Frontier province, much of whose agricultural land was owned by the nawab of Toru, a local hereditary ruler. The peasants had long suffered under multiple taxes and frequent fines imposed by the nawab. With the formation of a Congress-led government in the province in 1937, new hopes were created among peasants that their lot would improve. The Congress government, however, found itself caught between the expectations it had created among the peasants and its need to govern effectively, which required the cooperation of the landed classes. In the end, the government sided with the latter, suppressing the peasant uprising in Ghalla Dher. Alongside others from the Frontier Congress Socialist Party, but also members of the Congress and the Khudai Khidmatgars (a populist Pashtun organization founded by "the Frontier Gandhi," `Abd al-Ghaffar Khan [d. 1988], and closely allied with the Congress), Popalzai played a prominent role in supporting the cause of the peasants.⁵¹ Though there are hints that not a few `ulama were deeply uncomfortable with his socialist rhetoric, many among them came down on the side of the peasants in this instance.⁵² For them, the issue seems to have been not only the unjust and un-Islamic exactions of the nawab, but also the fact that these exactions were justified in the name of custom (*riwaj*),⁵³ whose contravention of shari`a norms has long been lamented by the `ulama.

Oppressive customary norms and their conflict with the shari`a were also at issue in peasant unrest in Hazara not long after the events of Ghalla Dher. Here again, Popalzai played an active role in helping organize peasants, mobilizing them, and giving religious sanction to their demands.⁵⁴ A Shari`at Act had come into force in the province whereby matters relating to Muslim personal law were to be regulated in accordance with Islamic law rather than local custom. This act had, however, excluded occupancy (i.e., hereditary) tenants from its purview.

⁵⁰ Ibid., 68.

⁵¹ For a detailed contemporary account of this episode, see Ram Saran Nagina, *Tahrik-i Ghalla Dher* (Lahore: al-Mahmud Academy, 1994; first published in 1939, with a foreword by `Abd al-Rahim Popalzai). Also see Faruq Khan, *Ishtiraki `alim*, 28–9; Sayed Wiqar Ali Shah, *Ethnicity, Islam, and Nationalism: Muslim Politics in the North-West Frontier Province 1937–1947* (Karachi: Oxford University Press, 1999), 62–72.

⁵² Cf. Shah, *Ethnicity*, 71. For hints of `ulama discomfort with Popalzai, see Faruq Khan, *Ishtiraki `alim*, 64.

⁵³ Faruq Khan, *Ishtiraki `alim*, 28.

⁵⁴ For a firsthand account, see *ibid.*, 30–9. For further details, including a documentary record relating to this peasant agitation, see `Abd al-Jalil Popalzai, *Hazara ke mazlum `awamm awr `Allama `Abd al-Rahim Popalzai* (Lahore: al-Mahmud Academy, 1994).

In continuing to be subject to customary norms, the lands cultivated by such tenants could be taken over by the landlords if the tenant did not have male offspring. Nor were the occupancy tenants allowed to transfer the land they cultivated without the approval of the landlords. The hereditary peasants of Hazara took the lead in challenging the claims of the landlords in the name of justice and, what to them amounted to the same thing, of the shari`a. A broad coalition, including not just the occupancy tenants and other peasants but also many members of the Congress, the Khudai Khidmatgars, and the socialists supported this cause.⁵⁵ The Frontier Mufti, Popalzai, added further weight to it by issuing a fatwa in favor of the agitating peasants.⁵⁶ The effort was much more successful on this occasion than had been the case with the Ghalla Dher agitation. The Punjab Tenancy Act of 1887, also in effect in the Frontier, had recognized the right to inheritance only of the male offspring of an occupancy tenant. An amendment, approved by the provincial legislative assembly, now extended that right to the occupancy tenant's female offspring as well, thereby closing one significant loophole through which the tenant's heirs were often dispossessed of their holdings.

Many *maliks* and *khans* – as tribal notables of the Frontier province are commonly known – had tried to resist the enactment of the 1935 Shari`at Act and some had even sought fatwas to justify their opposition. In one instance, Mufti Kifayat Allah, a prominent Deobandi scholar and the head of the Jam`iyat al-`Ulama-i Hind, had angrily rebuked the khans for opposing the implementation of shari`a norms in their communities.⁵⁷ The subsequent effort to extend the reach of the shari`a to the hereditary tenants likewise provoked considerable opposition from the local landed elite. Though today's neo-Taliban would probably have applauded that move, the opinion of the religious scholars was divided – rather more so, perhaps, than it was on the Ghalla Dher agitation.⁵⁸ Some were probably worried about the socialist backing for the demands of the peasants. And there surely were those who did not think that a tenant could legitimately claim to pass on property that he did not really own, a point to which we will return later. Other `ulama, including Popalzai, saw the problem differently, not least because the prevailing norms meant the denial of the female offspring's right to inheritance. But some went considerably further than challenging the reign of unjust customs. Speaking at the first Kisan (Peasant) Conference at Mansehra in Hazara in February 1939, one scholar asserted that if a peasant took something away without permission from the fields of a khan, he was not to be deemed liable for it. If the khan were killed in the course of preventing this act, he would go to hell; if the person taking

⁵⁵ Cf. `Abd al-Jalil Popalzai, *Hazara*, 197–8.

⁵⁶ Faruq Khan, *Ishtiraki `alim*, 32.

⁵⁷ Kifayat Allah, *Kifayat al-mufti*, 9: 274–5.

⁵⁸ I have not been able to find any sustained criticism by the `ulama on this score. But for hints of unease on the part of some unidentified `ulama, see `Abd al-Jalil Popalzai, *Hazara*, 90, 113.

away the goods in question were killed, he was to be deemed a martyr.⁵⁹ This is an extraordinary statement; however, as will be seen, it is not without precedent in medieval Islamic legal thought. A somewhat similar position is endorsed in the writings of Hifz al-Rahman Seoharwi (d. 1962), to which we now turn.

HIFZ AL-RAHMAN SEOHARWI: “THE ECONOMIC SYSTEM OF ISLAM”

Seoharwi was born in Bijnor in the United Provinces in 1901.⁶⁰ Unlike his brothers, who received a Western education at Aligarh, Seoharwi completed his education at Deoband, where he studied hadith with Anwarshah Kashmiri. After Kashmiri left Deoband to lead a madrasa in Dabhel in Gujarat, Seoharwi followed his mentor there, devoting himself, among other pursuits, to proselytizing in the neighboring towns and villages. Seoharwi was active in politics, serving in leadership positions in the Jam`iyyat al-`Ulama-i Hind in both colonial and post-independence India. He was also a founding member of the Nadwat al-musannifin, a prominent institution in Delhi devoted to sponsoring and publishing works in Islamic studies. Several of his books were first published by this institution. Seoharwi is perhaps best known today for a four-volume book comprising stories of the biblical and other figures mentioned in the Qur`an.⁶¹ He also wrote a substantial work on ethics, introducing his readers to Western and Islamic ethical thought in a comparative framework.⁶² I will focus, however, on a book on “the economic system of Islam” that Seoharwi first published in 1939. It has been reprinted several times since then, including at least four times during its author’s lifetime.⁶³

The motivation for this book was the concern to help prevent two, mutually opposed, misperceptions that Seoharwi found among his Muslim contemporaries. There were those who were drawn to the appeal of socialism and Communism not just because these ideologies seemed to offer a panacea for poverty and oppression but also because Islam itself was thought not to have much to say in combating economic exploitation. There were others who believed that the existing socio-economic order, with its stark inequalities and seeming injustices, was how God had

⁵⁹ Quoted in `Abd al-Jalil Popalzai, *Hazara*, 113–14. The speaker of these words was one Mawlana `Abd al-Ra`uf. Several `ulama of that name are mentioned in Fuyud al-Rahman, *Mashahir`ulama*. The most likely of those to have been this person is a native of Hazara who had studied at Deoband with Anwarshah Kashmiri and then served as a mosque preacher in Hazara. See *ibid.*, 1: 294.

⁶⁰ My account of Seoharwi’s life is based on Fuyud al-Rahman, *Mashahir*, 1: 152–9. Also see the articles on him collected in *al-Jam`iyya: Mujahid-i millat number* (Delhi: Idara-i tarjuman al-haqq, 1963); and Abu Salman Shahjahanpuri, ed., *Mujahid-i millat mawlana Hifz al-Rahman Seoharwi: Aik siyasi mutala`a* (Lahore: Jam`iyyat Publications, 2001).

⁶¹ Hifz al-Rahman Seoharwi, *Qasas al-Qur`an*, 4 vols. (Delhi: Nadwat al-musannifin, 1965; first published in 1941).

⁶² Hifz al-Rahman Seoharwi, *Akhlaq awr falsafa-i akhlaq* (Delhi: Nadwat al-musannifin, 1964).

⁶³ Hifz al-Rahman Seoharwi, *Islam ka iqtisadi nizam* (Lahore: Mushtaq Book Corner, n.d.). This edition is a reprint of the fourth, 1951, edition. For a brief discussion of this work, see Ahmad, *Islamic Modernism*, 201–4.

intended things, so that the miseries of one's worldly existence had to be borne patiently rather than challenged.⁶⁴ Seoharwi's response to these misconceptions was to try to show that Islam had an "economic system" of its own, one that was not merely different from other schools of economic thought but best suited to addressing the social, economic, and political needs of the people. Economic exploitation, Seoharwi argues here, is not part of divine will. Nor is it mere apologetics, provoked by the challenge of socialism and other modern ideologies, to claim that Islam is attentive to the economic aspects of people's life. Rather, economic well-being has been a central Islamic concern all along, and failure to see this merely reflects one's ignorance of the Islamic tradition.⁶⁵

Seoharwi posits a key distinction between matters relating to God's creation of the universe (*takwiniyyat* or *`alam-i takwin*) and those relating to laws and norms (*tashri`iyyat* or *`alam-i tashri`*). The former, he says, are eternal and unchangeable, and their underlying wisdom is known only to God. The latter, on the other hand, comprise a realm in which human intellect and initiative have a divinely recognized role.⁶⁶ Here, too, the fundamental norms are those delineated by God, but humans have been endowed with the ability to make choices between the good and the bad and to change and improve things. That "all command belongs to God alone," as the Qur'an says (Q 12.40), "does not mean that the amir or the caliph is not really a 'ruler' and that his command (*hukm*) is not a command." The framing of the "basic and fundamental" laws does, indeed, belong to God and, by His authority, to the Prophet and to no one else. But, Seoharwi insists, this does not entail that the ruler, and those in authority, are prohibited from addressing new problems. "For otherwise," he writes, sounding very much like a student of Anwarshah Kashmiri, "the door to *ijtihad* and *istinbat* [that is, the derivation of legal norms from the foundational texts] would have been closed. This, however, is not the case. On the contrary, sound analogical reasoning and *ijtihad* have an extremely important place in Islam."⁶⁷

In self-conscious contrast with the Marxists, Seoharwi does not advocate any radical socioeconomic leveling of society. Nor does he envision the abolition of private property, although he does call for regulating the right to individual ownership in light of the common good. There should, however, be complete equality in "the right to livelihood" (*haqq-i ma`ishat*). To Seoharwi, it is one of the most central obligations of an Islamic government to ensure that the means of livelihood are available to all members of society; a government that fails to do so is unjust and corrupt.⁶⁸ Those who are well-off are likewise obligated to help the poor and the needy, for their wealth is a trust from God. If the rich fail

⁶⁴ Seoharwi, *Iqtisadi nizam*, 8–9.

⁶⁵ *Ibid.*, 53.

⁶⁶ *Ibid.*, 53–4.

⁶⁷ *Ibid.*, 126–7 nn. 1–2.

⁶⁸ *Ibid.*, 48.

or refuse to help the needy and to contribute to the making and sustaining of a just social order, he says, the ruler ought to compel them to do so. Indeed, if the government itself is unable to provide means of livelihood and other help to everyone in need, the ruler can forcibly take from the accumulated wealth of the rich to provide for the poor *even after* the wealthy have already paid their dues to the government.⁶⁹

The ideas of Shah Wali Allah are featured prominently throughout Seorharwi's work. Like Sindhi, Seorharwi refers to the famous passage in *Hujjat Allah al-baligha* in which Wali Allah had spoken of the degenerate ways of the ancient Persian and the Byzantine ruling elite and their disastrous consequences for the poorer segments of those societies.⁷⁰ Following Wali Allah, Seorharwi makes the point that economic exploitation comes to afflict all facets of life, including the moral and the religious. The Islamic economic system, for its part, not only secures the economic welfare of the people but human well-being in general.⁷¹ Wali Allah is also invoked to highlight how parasitical claims on the public exchequer ruin the economy.⁷² The implication here, though Seorharwi does not spell it out explicitly, is that the poor, too, are not to live on handouts from the public exchequer or from the rich, but, instead, are to earn their livelihood through means that the government must provide to them. Wali Allah is again cited to explain that Islam did not leave granting shares in an estate to the goodwill and solicitude of the owner for his or her kinsmen. Rather, it reinforced such natural solicitude with religious injunctions so as to give it the sanction of sacred law.⁷³ If properly followed, Seorharwi says, the Islamic law of inheritance effectively prevents the accumulation of property in the hands of the few; and he laments the fact that many Muslims have continued to follow customary norms rather than the shari'a as a means of preventing the fragmentation of their estates.⁷⁴

In his *Islamic Modernism in India and Pakistan*, the noted historian Aziz Ahmad observes that "Sindhi and Sihwarwi [sic] have both attributed to Wali-Allah ideas that would have shocked that divine in the early eighteenth century."⁷⁵ It is true, of course, that Wali Allah had critiqued the norms of his own society in a very different context from that of Sindhi and Seorharwi; and it is not difficult to argue that these twentieth-century Deobandis sometimes stretch the apparent implications of Wali Allah's words a good deal in making them applicable to conditions in their own

⁶⁹ Ibid., 54–5.; also cf. *ibid.*, 85.

⁷⁰ Ibid., 28–32, quoting Wali Allah, *Hujjat Allah*, 1: 105–6. Seorharwi's and Sindhi's paths had crossed on occasion, although the extent of their interaction is unclear. See Muhammad Ishaq Bhatti, *Nuqush-i 'azmat-i rafta* (Delhi: al-Kitab International, 2003), 352.

⁷¹ Seorharwi, *Iqtisadi nizam*, 26.

⁷² Ibid., 30–1; Wali Allah, *Hujjat Allah*, 1: 106. Also see Seorharwi, *Iqtisadi nizam*, 180, citing Wali Allah, *Hujjat Allah*, 1: 45.

⁷³ Seorharwi, *Iqtisadi nizam*, 407–9; Wali Allah, *Hujjat Allah*, 2: 117.

⁷⁴ Seorharwi, *Iqtisadi nizam*, 409.

⁷⁵ Ahmad, *Islamic Modernism*, 207. Also *ibid.*, 198.

time. Yet Ahmad's criticism – in which he is not alone⁷⁶ – is not altogether convincing. For Wali Allah was, indeed, a severe critic of varied facets of the society he inhabited, ranging from the practices of his fellow scholars and Sufis to the ways of the ruling elite. He comments on the parasitical luxuries of the political elite,⁷⁷ and he castigates even the craftsmen for their wasteful ways, urging them to live within their means and to share their savings with the needy.⁷⁸ His *Hujjat Allah al-baligha* is an unusual work for its times not only in its sustained explication of how the sacred law conforms to and promotes human interests, but also for its attention to economic issues. Two small but revealing examples of his distinctive views are worth noting here. While Muslim jurists have generally agreed that wearing gold is prohibited to men, Wali Allah held that wearing "heavy" gold was forbidden to women as well. Sa'id Ahmad Palanpuri, the Deobandi author of a recently completed five-volume commentary on *Hujjat Allah al-baligha*, challenges this view and notes that the generality of Muslim scholars do, in fact, approve of such jewelry for women.⁷⁹ Second, while medieval jurists generally held that the heads on which zakat ought to be expended are only those specifically mentioned in the Qur'an (Q 9.60), Wali Allah believed that the eight categories noted in the Qur'an should not be seen as an exhaustive list. Again, Palanpuri, the Deobandi commentator, disputes this view.⁸⁰

Such Deobandi discomfort with some of Wali Allah's positions suggests that the latter did, in fact, break with an ongoing scholarly tradition in ways from which subsequent Muslim reformers have taken their cue.⁸¹ My point here is not to assert that social critics like Sindhi and Seoharwi are always faithful to Wali Allah in the essentials of his thought. It is, rather, that Wali Allah's thought does seem to provide some grounds for such critics to invoke him and to further develop what they take to be some of its implications. Unless we take a narrow and positivist view of Wali Allah's thought and of the immediate context in which he wrote, this is not necessarily an illegitimate reconstruction or extension of his ideas. To put this slightly differently, such efforts at extending the implications of Wali Allah's ideas need not be considered any less legitimate than, say, a contemporary Western theologian's effort to see how the ideas of Augustine

⁷⁶ See J. M. S. Baljon, "A Comparison between the Qur'anic Views of 'Ubayd Allah Sindhi and Shah Wali Allah," *Islamic Studies* 16 (1977): 179–88.

⁷⁷ See Wali Allah, *Tafhimat*, 1: 285, 288. Also Chapter 9.

⁷⁸ Wali Allah, *Tafhimat*, 1: 286–7.

⁷⁹ Wali Allah, *Hujjat Allah*, 1: 106, 2: 190; Sa'id Ahmad Palanpuri, *Rahmat Allah al-wasi'a, sharh Hujjat Allah al-baligha*, 5 vols. (Deoband: Maktaba-i Hijaz, 2001–4), 2: 242, 5: 505–8. Palanpuri is now the shaykh al-hadith and the head professor of the Dar al-'Ulum of Deoband.

⁸⁰ Wali Allah, *Hujjat Allah*, 2: 45; Palanpuri, *Rahmat Allah*, 4: 74–6.

⁸¹ For some other examples of Deobandi discomfort, this time not with reference to socioeconomic issues, see Sayyid Ahmad Rida Bijnori, *Anwar al-bari, Urdu sharh sahih al-Bukhari*, 19 vols. (Multan: Idara-i ta'lifat-i ashrafiyya, 2004), 19: 384ff. This Urdu commentary on al-Bukhari's canonical collection of hadith is based, in part, on Anwarshah Kashmiri's lectures, though the views critical of Wali Allah are not those of Kashmiri.

or Aquinas might offer a broad framework in which to address contemporary concerns.

While Wali Allah is repeatedly cited by Seoharwi throughout his book, the strongest influence on his argument – missed entirely by Aziz Ahmad – comes from a different source, viz. the prolific eleventh-century Spanish jurist Ibn Hazm (d. 1064). Ibn Hazm was, by far, the most important scholar of the now defunct Zahiri school of law, which, as its name suggests, was guided by the conviction that the foundational texts ought to be understood in terms of their plain sense (*zahir*). The Zahiris had a bad press in medieval Islamic juridical circles, although Ibn Hazm has been cited with approval by some modern Muslim scholars.⁸²

A key passage that forms part of Ibn Hazm's discussion of zakat in his book *al-Muhalla bi'l-athar* deserves to be quoted at some length here for it is central to Seoharwi's view of an Islamic economic system. Ibn Hazm writes:

The rich of every town are obligated to provide for the poor in that town. If the zakat [collected by the government] and other public funds are insufficient for the purpose, the ruler can force them [to assist the poor]. Provisions are to be made to feed them, to provide them with clothing in summer and winter, and with lodgings where they will be sheltered from rain, heat, and floods. Among proofs of this obligation [on the rich] are the following words of God: "Give relatives their due, and the needy, and travelers" [Q 17.26]. And "Be good to your parents, to relatives, to orphans, to the needy, to neighbours near and far, to travelers in need, and to your slaves" [Q 4.36]. . . . God has also said [quoting what those in heaven will say to those consigned to hell], "What drove you to the Scorching Fire?" and they will answer, "We did not pray; and we did not feed the poor" [Q 74: 42–44]. Here God the exalted juxtaposes feeding the poor with the obligation to pray.

From the Prophet, too, it is reported with great reliability and through numerous chains of transmission that he said, "God does not have mercy on the person who is not merciful to the people". . . . The Prophet [also] said, "He who has a spare animal to ride (*zahr*) should give it to the one who doesn't have any; and he who has provisions beyond his needs should give them to the one who doesn't have any." [Abu Sa'ïd al-Khudri, the narrator of this hadith, commented: "The Prophet] continued in this vein with reference to different kinds of property until we thought that we had no right to anything that was surplus." [Ibn Hazm adds]: What Abu Sa'ïd [al-Khudri] reports represents the consensus of the Companions [of the Prophet]. And we adhere to what this report says.

Having reviewed the key texts enjoining assistance to the poor and the needy, Ibn Hazm takes a radical turn. He writes:

It is said that if one is so thirsty as to be on the verge of death, he is obligated to get water wherever he can find it, even if he has to fight for it (*an yuqatil`alayhi*). But what

⁸² For an overview of this defunct school, see *E I2* s.v. "al-Zahiriyya" (by Abdel-Magid Turki). For an illustration of Qaradawi's attitude toward him, see his *Maqasid al-shari`a*, 47–50. Another illustration will be offered later in this chapter.

is the difference between [the jurists'] permitting fighting to someone who is dying of thirst in order to stave off death and someone who resorts to fighting in order to avoid death by hunger and exposure to the elements? And yet the jurists forbid fighting on the latter grounds. This position is, however, contradicted by the Qur'an, by the normative example of the Prophet, and by analogical reasoning.

It is not permitted for a Muslim to eat carrion or pork in dire need if he can find surplus food with someone else, whether it belongs to a Muslim or to a non-Muslim. For the person with the [surplus] food is obligated to feed the hungry; if he did feed the hungry, the latter could not be said to have been "constrained" to eat carrion or pork . . . It is permitted [to the person in dire need] to fight in order to meet his need. If he is killed in the process, his killer is liable for it. And if the person preventing him [from satisfying his dire need] is killed, that person is damned, for he [died] obstructing a right and is therefore to be reckoned as being part of the rebellious faction (*ta'ifa baghiya*). As God says, "If one of them is oppressing the other, fight the oppressors until they submit to God's command" [Q 49: 9]. The one denying the right is a rebel against his brother, to whom the right belongs . . ."⁸³

The foregoing extracts should suffice to give us a flavor of Ibn Hazm's argument. Seoharwi cites Ibn Hazm at various places in his book, and he translates the passage I have quoted from here in its entirety into Urdu toward the end of his book.⁸⁴ To Seoharwi, there is no better statement of the basic economic rights of people than Ibn Hazm's; and, much like Ibn Hazm, he takes it to encapsulate the fundamental Islamic teachings on the matter. Remarkably, Seoharwi thinks that Ibn Hazm's prescribed course of action would help avoid any possibility of a class war.⁸⁵ By this he presumably means that, despite Ibn Hazm's explicitly calling upon those in dire straits to secure their means of sustenance in whatever manner necessary, things would not come to such a pass if the rich are already sharing some of their wealth with the needy and if the government is already *making* them do so. It should be noted that Seoharwi also places considerable faith in the ethical formation of the people. This is hardly unexpected from a scholar who wrote a book on ethics and who, early in his career, had devoted some of his time to inculcating Islamic norms among people through proselytism. Indeed, as Seoharwi notes toward the end of his book, there are two key ways to bring about an "economic revolution": through legislation, whereby possibilities of economic exploitation are curtailed and the common good is promoted, and through education and the inculcation of ethical and moral norms, so that habits of spending in the path of God become ingrained among people.⁸⁶

⁸³ Ibn Hazm, *al-Muhalla bi'l-athar* (Beirut: Dar al-kutub al-'ilmiyya, 1988), 4: 281–4 (#725). All references are to this edition, unless otherwise noted.

⁸⁴ Seoharwi, *Iqtisadi nizam*, 396–404.

⁸⁵ *Ibid.*, 404–5.

⁸⁶ *Ibid.*, 424–5.

SOCIOECONOMIC JUSTICE AND THE AMBIGUITIES
OF THE `ULAMA

It is not difficult to see that many Deobandi scholars, and `ulama in general, would have had strong misgivings about ideas like those of Sindhi, Popalzai, and Seoharwi. As will be observed in more detail in the next chapter, the Deobandis have often had complex views so far as the resort to violence is concerned. They have never ruled out the necessity of jihad when the circumstances demand it, and they have continued to tolerate among their ranks even those – such as the neo-Taliban of contemporary Pakistan – whose excesses they otherwise lament. Yet leading Deobandi `ulama have usually seen the patient reform and reinvigorating of religious belief and practice as a surer way of promoting the community's interests than a call to arms. Seoharwi was not quite a firebrand, and Sindhi, even Popalzai, professed to be committed to nonviolence.⁸⁷ The threat of violence lurks uncomfortably close to the surface in the thinking of all three figures, however, and this cannot but have caused anxiety in many Deobandi circles.

This threat is, of course, tied to calls for a complete overhaul of the socioeconomic system. Other Deobandi scholars frequently also lamented the socioeconomic ills afflicting Muslims. In a long and wide-ranging speech as president of the Peshawar session of the *Jam`iyyat al-`Ulama-i Hind* in 1927, Anwarshah Kashmiri had demonstrated that Deobandi `ulama were hardly lacking in social consciousness. He had spoken, inter alia, of the need for Muslim judicial officials, whose absence in British India had caused severe problems to Muslims. He had railed against un-Islamic customary norms, such as the practice of excluding girls from a share in the inheritance, of demanding large sums of money from prospective bridegrooms, and of spending exorbitantly on occasions of marriage and death, which, in turn, tended to trap generations of people into cycles of usurious debt. And he had ended his speech with a rousing call for people to assist their fellow Muslims in all possible ways.⁸⁸ Much of the first volume of the two-volume autobiography of Husayn Ahmad Madani is, for its part, devoted to the devastating impact of colonial rule on the Indian economy and especially on the economic well-being of the Muslims of India.⁸⁹ Madani – by far the most prominent Deobandi political figure in late colonial India – wrote this book during the final years of British rule, and laying much of the blame for Indian economic distress at the doorstep of the British was meant as a rallying cry to mobilize people against colonial rule; it also expressed the hope, of course, that Muslim fortunes would begin to improve once the British had left India. There is no plan here for any radical restructuring of economy

⁸⁷ For Popalzai, see his speeches at the 1939 peasant conferences in Hazara, as reproduced in `Abd al-Jalil Popalzai, *Hazara*, 104, 196–7. Cf. Shah, *Ethnicity*, 70 (on nonviolence in the Ghalla Dher episode).

⁸⁸ “Khutba-i sadarat az Mawlana Sayyid Muhammad Anwarshah,” in Parvin Rozina, ed., *Jam`iyyat al-`Ulama-i Hind: Dastawizat-i markazi ijlasha-i `amm*, 2 vols. (Islamabad: National Institute of Historical and Cultural Research, 1980), 1: 385–451, esp. 429–51.

⁸⁹ Madani, *Naqsh-i hayat*.

and society, however, anymore than there is one in Kashmiri's analysis. Neither Kashmiri nor Madani seem to have thought that severe socioeconomic disparities were the will of God, a view that Seoharwi had sought to rectify. But there is little indication that either saw the need for any drastic measures in combating these disparities.

To the extent that such measures carried the label of socialism, many among the `ulama were understandably suspicious of them. At the heart of this suspicion of socialism lay the view that it was an atheistic ideology and thus represented a fundamental threat to Islam and Muslims. However, such suspicion had other bases, too. In promising to address the economic needs of the people, socialism seemed to undercut Islam's claims to provide guidance on *all* facets of life; even Seoharwi had sought to show in his book that Muslims need not turn to socialism because Islam had provided the blueprint for a perfect economic system all along. The `ulama, moreover, have generally sought to restrict the scope and functions of government, so that the idea that economic activity should be regulated by the government, with a vast concomitant expansion in its reach, has never appealed much to them. And putting limits on private ownership is especially anathematic to many among the `ulama in view of a long tradition of recognizing the sanctity of the right to private property.

As much as Sindhi, Popalzai, and Seoharwi might object to it, leading Deobandi `ulama did not think that the interests of the peasants needed to be upheld above those of the landlords. A brief look at the *Imdad al-fatawa*, a collection of the fatwas given by Ashraf `Ali Thanawi, is instructive here. The section on lease (*kitab al-ijara*) in this work contains a number of fatwas on the question of hereditary or occupancy tenancy. In practically all instances, Thanawi holds that the tiller of the land does not have any proprietary privileges over the land, irrespective of the length of time for which he has cultivated it. Any claims to holding the land in perpetuity, to being able to rent it to other, subsidiary tillers, or to building on the land in question without the approval of the actual owner are all forms of usurpation on the part of the tenant.⁹⁰ Thanawi also believes that the owner has the right to impose particular dues on the tenants as long as they are not in explicit violation of any shari'a norm and provided they have been clearly agreed upon between him and the tenants.⁹¹ The assumption that the tenant has sufficient bargaining power to enter into a fair agreement with the landowner remains unquestioned. This, incidentally, is an assumption that Seoharwi contests, again invoking Wali Allah. Taking the example of a poor person committing himself to the terms of a usurious loan, Wali Allah had noted that such a person could not be thought to have entered into this agreement freely, because he was constrained by his circumstances.⁹² Seoharwi here makes the larger point that Islam does not

⁹⁰ For his views on these matters, see Ashraf `Ali Thanawi, *Imdad al-fatawa*, ed. Mufti Muhammad Shafi'. 6 vols. (Karachi: Maktaba-i Dar al-'Ulum, 2004), 3: 350–5, 360–2, 368, 375–6, 379–83, 389–90.

⁹¹ *Ibid.*, 3: 404–6.

⁹² Wali Allah, *Hujjat Allah*, 2: 103; Seoharwi, *Iqtisadi nizam*, 373.

recognize the agreements into which impoverished laborers are forced to enter on account of their destitution; rather, it considers them injustice (zulm).⁹³ Although Seoharwi does not say so, the fact that many `ulama have failed to notice or at least to acknowledge such injustice also suggests, of course, that their own economic interests are much more closely tied to those of the landed classes and the urban bourgeoisie than they are to those of peasants and laborers.

At this point, we clearly need to reframe our question. Rather than asking why the Deobandis should have been unfavorably disposed toward the sort of ideas that Sindhi, Popalzai, and Seoharwi represented, we might well ask why such ideas should have been espoused at all. One useful way to address this question is, of course, in light of the life and particular circumstances of people like Sindhi, Popalzai, and Seoharwi. I have touched upon this earlier with reference to Sindhi. For its part, Popalzai's peasant activism was intimately tied to populist sociopolitical movements in the Frontier with concerns similar to his. And Seoharwi may, in part, have been railing against status hierarchies that were taken for granted even by his fellow `ulama.⁹⁴ Yet the question goes beyond the specificities of individual life experience and local context, and I wish to comment on it in broad terms here.

As Seoharwi shows in following Ibn Hazm, there *are* strands in medieval Islamic thought that can lend themselves to arguments for socioeconomic justice in modern Muslim societies. One might well argue that Ibn Hazm – who, in any case, is not a central figure in medieval Sunni thought – is being invoked here as mere window dressing for concerns that are eminently modern. Yet it is not easy, and perhaps not altogether useful, to sharply distinguish between how far religious scholars like Seoharwi have been shaped by the challenge or the appeal of socialism and to what degree certain medieval Muslim thinkers have, in fact, influenced their approaches.⁹⁵ The latter, too, are part of the modern `ulama's intellectual universe after all. And, as illustrated by the case of the religious scholar who had endorsed a position not dissimilar to Ibn Hazm's at Popalzai's Kisan Conference in 1939, one scarcely needed to be a distinguished intellectual to muster resources from the scholarly tradition.⁹⁶ Invocations of Wali Allah likewise suggest that at least some `ulama saw him as their precursor in their socioeconomic concerns. It is also worth noting that, contrary to the impression one gets from Thanawi's fatwas on questions of land tenure, not all Hanafi jurists saw the

⁹³ Seoharwi, *Iqtisadi nizam*, 372–3. It is not uncommon for peasants and laborers to be forced to work on the estates of the quasi-feudal landowners of the Punjab and Sindh in contemporary Pakistan. In self-defense, the landowners have sometimes claimed that peasants do such work “of their own accord.” For one example, see Nur Muhammad Soomro, “Police awr ba-athar afrad ka gath-jor,” *Express* (Lahore), July 26, 2010.

⁹⁴ See n. 145.

⁹⁵ For a different perspective on the relationship between modern social thought and the medieval tradition, see Charles Tripp, *Islam and the Moral Economy: The Challenge of Capitalism* (Cambridge: Cambridge University Press, 2006), 62ff.

⁹⁶ See n. 59.

claims of the hereditary tenants as illegitimate. As some contemporary Deobandis acknowledge, the distinguished early nineteenth-century Damascene jurist Ibn `Abidin (d. 1836), whose work Thanawi knew well, had argued for the permissibility of certain forms of hereditary tenancy on grounds of customary practice.⁹⁷ In short, despite important reasons why many Deobandis should have been suspicious of those arguing in terms of socioeconomic justice, it is clear that the Islamic tradition is not uniformly stacked against such arguments.

As in so many other respects, developments in the modern Middle East are likely to have had some influence as well on the socioeconomic thought of the Indian `ulama. It was only at the end of the second decade of the twentieth century that Jassas's work had become available in print, as noted earlier with reference to Sindhi. Popalzai, too, had become aware of some of the contents of this work in the course of his two-year stay in the Hijaz, where he had arrived in 1934.⁹⁸ (I will return to Popalzai's understanding of Jassas in the next chapter.) Ibn Hazm's multivolume *al-Muhalla* had been published in Egypt between 1928 and 1934, and its first volumes had begun to become available in India almost immediately.⁹⁹ Seoharwi's *Economic System of Islam*, first published in 1939, would have looked quite different had Ibn Hazm's work not been available to him.

Seoharwi also draws on the work of several of his Arab contemporaries.¹⁰⁰ Rashid Rida's commentary on the Qur'an is cited, too, though only in passing.¹⁰¹ This is

⁹⁷ See Muhammad Zubayr Ashraf `Uthmani, *Jadid ma`ashi nizam men Islami qanun-i ijara* (Karachi: Idarat al-ma`arif, 2005), 391–410, citing, inter alia, Ibn `Abidin, "Tahriir al-`ibara fi-man huwa ahaqq bi'l-ijara," in *Rasa'il Ibn `Abidin*, published with independent pagination, (n.p., n.d.). On Thanawi's ambivalence toward Ibn `Abidin, see Zaman, *Ashraf `Ali Thanawi*, 71–8.

⁹⁸ Faruq Khan, *Ishtiraki `alim*, 23–5.

⁹⁹ Ibn Hazm, *al-Muhalla bi'l-athar*, ed. Ahmad Muhammad Shakir (Cairo: Idarat al-tiba'a al-muniriyya, 1928–34). For a brief discussion of this work, which also serves as an announcement of its publication, see Sayyid Sulayman Nadwi, "Zahiriyya ke `aqa'id awr masa'il awr *al-Muhalla* li-Ibn Hazm," *Ma`arif* 25/3 (1930): 166–74. At the time he published this introductory piece in 1930, only the first two volumes of the work were available to Nadwi.

¹⁰⁰ These include Muhammad Kurd `Ali (d. 1953), Rafiq `Azam (d. 1925), the Qur'an exegete Tantawi Jawhari (d. 1940), `Abd al-Rahman al-Jaziri, and `Ali Abu'l-Futuh (`Ali Pasha, d. 1913). Note also that Ahmad Muhammad Shakir, the editor of *al-Muhalla*, had specifically drawn attention to the implications of Ibn Hazm's views on zakat. In a footnote to Ibn Hazm's statement that the ruler could force people to provide for the poor beyond zakat, Shakir wrote, "From this and similar examples in the shari'a, any fair person can see that Islamic legislation is the height of wisdom and justice. Would that those of our brothers who are saturated with, and deluded by, man-made laws became cognizant of these points so that they could see that their religion has brought forth the best possible form of legislation. . . . If they acted according to it, they would be the leaders of all nations. Has any destructive revolution, any deadly strife, ever resulted from anything other than the oppression of the poor by the rich, the latter's monopoly of all worldly goods while their neighbors are dying of hunger and exposure. . . .?" (Ibn Hazm, *al-Muhalla*, ed. Shakir, 6: 156 n. 3). Seoharwi did not need this note to understand the implications of Ibn Hazm's argument (and he does not refer to it), but it would surely have reaffirmed his own conclusions. On Shakir, an Egyptian shari'a court judge with Salafi leanings and a younger contemporary of Rashid Rida, see Ron Shaham, "An Egyptian Judge in a Period of Change: Qadi Ahmad Muhammad Shakir, 1892–1958," *Journal of the American Oriental Society* 119 (1999): 440–55.

¹⁰¹ Seoharwi, *Iqtisadi nizam*, 75–6.

surprising, for Rida had shown more interest in issues of socioeconomic justice – and was milder in his criticism of socialism – than many Arab religious scholars of his age. Part of the appeal of socialism lay, for him, in its representing a major challenge to European imperialism. Significantly, as Ahmad al-Mulla has observed, Rida had managed to maintain a favorable view of socialism not only prior to the Bolshevik revolution but also in its aftermath, at a time of labor unrest in Egypt and grave apprehension in governmental and religious circles about the politically subversive influence of the socialists and the Communists.¹⁰² In the final analysis, however, Rida was convinced that the teachings of Islam, when implemented in accordance with the example of the pious forbears (the *salaf*),¹⁰³ offered a much better solution to the economic needs of the people than anything that socialism had to offer. In marked contrast with Ibn Hazm and Seoharwi, Rida had also made a point of insisting that the needy had no right to take things from the rich without their consent. It was not the threat of violence that he seems to have been worried about here so much as the fact that helping oneself in unauthorized ways from other people's property would ultimately destroy the sources of financial assistance for the poor and the needy and that it would promote laziness and parasitism.¹⁰⁴ This may not have gone down well with Seoharwi, although he did not cite Rida even to record his disagreements with him on this score. Seoharwi, it is worth recalling, was a student of Anwarshah Kashmiri, and it may be that the memory of Rida's very public disagreements with him also made the Syrian Salafi a less than desirable interlocutor.

Intellectual trends from outside the Arab and Islamic world had some influence, too, on the social thought of the *`ulama*, and not just in the case of unusually cosmopolitan figures like Sindhi. At least some Indian *`ulama* of the first half of the twentieth century would have been aware, for instance, of the social teachings of the Catholic church. In 1934, *Ma`arif* – the Urdu journal that had heralded the publication of Ibn Hazm's *al-Muhalla* in 1930 – published a short piece titled "The American Church and the Solution of Economic Problems." The essay offered an account of some of the activities of the National Catholic Welfare Conference of the United States and the efforts of this organization to promote the equitable distribution of wealth and to base economic progress on religious principles. The essay concluded by commending the goals of this movement and by expressing satisfaction that it was guided by principles enunciated by Islam long ago.¹⁰⁵ For all

¹⁰² Ahmad Salah al-Mulla, *Judhur al-usuliyya al-Islamiyya fi Misr al-mu`asira: Rashid Rida wa majallat al-Manar 1898–1935* (Cairo: Matba`at Dar al-kutub wa'l-watha'iq al-qawmiyya, 2008), 358–60. On Egyptian labor in Rida's age, see Joel Beinin and Zachary Lockman, *Workers on the Nile: Nationalism, Communism, Islam, and the Egyptian Working Class, 1882–1954* (Princeton: Princeton University Press, 1987).

¹⁰³ *al-Manar* 13 (1910–11), 254.

¹⁰⁴ *Ibid.*, 253.

¹⁰⁵ "Kalisa-i Amrika awr masa'il-i iqtisadi ka hall," *Ma`arif* 33/1 (1934), 52–3. On this organization and related associations, see Dorothy M. Brown and Elizabeth McKeown, *The Poor Belong to Us: Catholic Charities and American Welfare* (Cambridge: Harvard University Press, 1997).

his misgivings about Christian missionaries in the Middle East, Rashid Rida would have endorsed these comments. He admired the social welfare and educational activities of European Christian organizations even as he lamented the lack of Muslim attention to the establishment of comparable organizations.¹⁰⁶

There is, however, a more immediate context, too, for the engagement with socioeconomic justice on the part of the Deobandi scholars we have been discussing so far. As Nandini Gooptu has shown, efforts toward mobilizing the urban poor and the Muslim working classes were in progress during the 1920s and 1930s, specifically in opposition to Hindu economic domination. Such mobilization, she argues, was part of a reassertion of Muslim religious identity at this time, and the urban poor were becoming an increasingly important segment of Muslim festivals and other public commemorations. Yet Gooptu also shows that there was considerable ambivalence on the part of many scholars, as well as other Muslim urban notables, toward such public religiosity.¹⁰⁷ This incidentally suggests another reason for the suspicion of many Deobandi `ulama toward appeals to socioeconomic justice, viz., the populism that accompanied it and of which the `ulama – aspiring to social respectability – were often wary. Even so, and though Gooptu rarely names them, there clearly existed religious scholars in late colonial India who were known to identify with the cause of the working classes and the urban poor. They may have been guided by certain facets of the Islamic religious tradition even as they were moved to action by the plight of the urban poor. Equally, as Gooptu suggests, they may have been motivated not only by the need to defend Muslim identity against an increasingly assertive Hinduism but also by the desire to extend their leadership over larger sections of the Muslim community. Just as the motives underlying the `ulama's socioeconomic action might vary, so, too, did its expressions. Some, for instance, were part of the Punjab-based Majlis-i Ahrar, an organization founded in the late 1920s and notable as much for its anti-colonialism and for waging battles against sectarian opponents – especially the Ahmadis and the Shi'a – as for its program of Muslim socioeconomic uplift.¹⁰⁸ The discourses of Sindhi, Popalzai, and Seoharwi would, in any case, have been recognizable to contemporaries as not very different from those of a small but not insignificant strand among `ulama and Sufis in late colonial India.¹⁰⁹

This legacy continues to have varied iterations in postcolonial South Asia, although only a few illustrations must suffice here. In a fiery speech delivered

¹⁰⁶ “al-Ishtirakiyya wa'l-din,” *al-Manar* 1 (1898), 945–9, at 946–7.

¹⁰⁷ Nandini Gooptu, *Politics of the Urban Poor in Early Twentieth-Century India* (Cambridge: Cambridge University Press, 2001), 244–320, esp. 253–4, 268.

¹⁰⁸ See Wilfred Cantwell Smith, *Modern Islam in India: A Social Analysis* (London: Victor Gollancz, 1946), 224–8. Also see the detailed autobiographical account of this organization's activities by an Ahrar political activist: Janbaz Mirza, *Karwan-i Ahrar*, 7 vols. (Lahore: Maktaba-i tabsira, 1977). On the economic concerns of this organization, see, for instance, *ibid.*, 1: 306–8; 2: 424–5, 444–5; 5: 436–8.

¹⁰⁹ It should be noted, however, that, unlike many of the `ulama and Sufis discussed by Gooptu (but like the Ahrar), Sindhi, Popalzai, and Seoharwi sought, in their distinct ways, to steer clear of communalist politics – that is, of mobilizing Muslim sentiment in opposition to the Hindus.

before students of the Nadwat al-`Ulama in Lucknow on the occasion of India's independence anniversary in 1997, the aforementioned Sayyid Salman Husayni Nadwi questioned whether independence was anything more than a mirage for most of the country's inhabitants. True freedom means freedom from injustice, he says, but all kinds of injustice are rife in contemporary India. The long-oppressed Hindu "backward classes" have finally risen up to demand their rights, but Muslims have failed to do so. He calls upon them to mobilize, and not just for their own rights:

There are countless oppressed people here who are crying out [in pain]; countless women who remain deprived of their rights; numerous children who don't receive any education; poor people in untold numbers who are facing famine and starvation. Is it not the obligation of Muslims to stand up for demands such as these? Is it only for others to speak on behalf of humanity, to address everyone's problems, while the Muslim has become so worthless as to be incapable of even speaking for himself?¹¹⁰

Significantly, some Indian Deobandis have gone beyond lamenting the community's haplessness to direct at least some of their criticism at the religious leadership itself. The Delhi-based Waris Mazhari is among the most articulate of such critics. He is the editor of the *Tarjuman-i Dar al-`Ulum*, the monthly magazine of Dar al-`Ulum Deoband's old boys' association; Sindhi, it will be recalled, had helped organize the first such association in the early twentieth century.

There is much debate in contemporary India, as there is in Pakistan, on the pros and cons of government regulation of madrasas. Although he opposes any such regulation by the state, Mazhari has been a severe critic of how the `ulama themselves have often run their madrasas:

For many, establishing a madrasa is a means for earning money for themselves. They pay their staff, including teachers, pitiable salaries, while many of them travel in cars, live in fancy flats and send their children to modern schools and colleges. [T]his has led to a silent, but certainly very obvious, conflict between the managers and teachers in many madrasas. . . . Most madrasa graduates are [for their part] totally confused about their future job prospects. They have no idea what sort of work they are going to do. . . . I have met some graduates of the Deoband madrasa who joined the Qadiani [Ahmadi] sect only out of material interest. The Prophet Muhammad is quoted as having said that poverty sometimes leads to unbelief. Islam has been wrongly interpreted as enjoining poverty, as denying this world. Now, the managers of the madrasas do not abide by this teaching, but the teachers and other staff are forced to, being paid very meager salaries. . . . Managers of madrasas that are dependent on the donations of the community must not behave as if they are their own business concern [and] that they can spend the money just as they like. At least in such [commercial] companies you have workers' unions, but in madrasas there is nothing of the sort to check the arbitrariness of the management. Students cannot demonstrate or make

¹¹⁰ Salman Nadwi, *Azadi-yi Hind*, 10–41, quotation at p. 39. Cf. Qaradawi, *Fiqh al-jihad*, 1: 436.

demands. They cannot ask why they are made to stand two hours in a queue for food, as happens in some madrasas.¹¹¹

Salman Nadwi's plea for an overlapping consensus on social justice and Warith Mazhari's critique of fellow `ulama could have come straight out of Sindhi's discourses. But for reasons that should be plain by now, many contemporary `ulama remain wary of much direct acknowledgment of Sindhi's influence.¹¹² For not dissimilar reasons, little attention has been paid to Popalzai. And Seoharwi is better remembered for his edifying stories from the Qur'an, and for his role in the Indian freedom struggle, than for his work on socioeconomic justice.

Some members of the Jam`iyyat al-`Ulama-i Hind and of its Pakistani incarnation, the Jam`iyyat al-`Ulama-i Islam, have nonetheless remained well known for their advocacy of economic causes. Under their leadership, the Jam`iyyat al-`Ulama-i Islam of Pakistan – to which I limit myself here – had assigned an important place to such issues in its party platform during the general elections of 1970; significantly, it had also entered into an electoral alliance on this occasion with the Pakistan Labor Party.¹¹³ The prominence of economic concerns was, in part, a response to the socialist appeal of the Pakistan Peoples' Party of Zulfiqar

¹¹¹ Yoginder Sikand, "Interview with Waris Mazhari on Central Madrasa Board and Madrasa Reforms in India," <http://www.theamericanmuslim.org/tam.php/features/articles/interview-with-waris-mazha...> (accessed October 4, 2007).

¹¹² An intriguing instance of the ambivalence toward Sindhi in contemporary Indian Deobandi circles is worth noting here. In the first volume of his aforementioned commentary on the *Hujjat Allah*, Sa'id Ahmad Palanpuri notes that he was greatly assisted by `Ubayd Allah Sindhi's discourses on this work (Palanpuri, *Rahmat Allah*, 1: 32–3). Palanpuri also cites Sindhi's glosses on some of Wali Allah's technical terms (see Palanpuri, *Rahmat Allah*, 1: 494, 782, 804, 806, 811, 818; 2: 75, 154, 231, 294; 4: 77). In the first edition of the first volume of his commentary, Palanpuri had noted as well that he (Palanpuri) had studied *Hujjat Allah* with Muhammad Tayyib, the longtime principal of the Dar al-`Ulum madrasa of Deoband, who, in turn, had studied it with Sindhi. This latter remark provoked a strong reaction from Muhammad Salim Qasimi, the principal of the Dar al-`Ulum Waqf of Deoband. (The "Waqf" madrasa was established in 1982 in the wake of a dispute among the administrators of the Dar al-`Ulum Deoband, which had led to Tayyib's removal as principal of the Dar al-`Ulum.) Vol. 2 of Palanpuri's *Rahmat Allah* had carried encomiums from a number of `ulama, including the one in which Salim Qasimi had sought to correct the putatively erroneous claim that Tayyib had studied the *Hujjat Allah* with Sindhi. A subsequent edition of vol. 2 (or perhaps a corrected reprint, though with the same publication date, January 2002) contains Salim's encomium, but the passage complaining about Tayyib's studying with Sindhi has now been omitted (Palanpuri, *Rahmat Allah*, 2²: 24; for the earlier version, which included the passage in question, see Palanpuri, *Rahmat Allah*, 2¹: 24–5). A subsequent (2004) edition of volume 1 continues to note that Palanpuri had studied the *Hujjat Allah* with Tayyib, but it says nothing about Tayyib having studied it with anyone else (Palanpuri, *Rahmat Allah*, 1² [2004]: 31. I have not seen the first edition of vol. 1, and base the point about the relationship between Sindhi and Tayyib on Salim's rejoinder in vol. 2¹). Also hard to miss is the fact that references to Sindhi's discourses on the *Hujjat Allah* begin to peter out in the second volume of Palanpuri's commentary; I have come across only one reference to them in the last three volumes (see 4: 77). This *studied* neglect of Sindhi is indicative of the ambivalence toward him in many Deobandi circles; however, it also suggests that his legacy has continued to resist erasure.

¹¹³ Sayyid A. S. Pirzada, "Islam and Socialism in the 1970 General Elections: A Case Study of the Jam'iat `Ulama-i-Islam Pakistan," *Journal of the Pakistan Historical Society* 41 (1993): 397–404.

Ali Bhutto and, more broadly, of Islamic socialism then sweeping parts of the Muslim world. But it also reflected certain continuing trends within the ranks of the Deobandi `ulama, as has been seen.¹¹⁴

A number of prominent Deobandis in Pakistan were highly critical, however, of the Jam`iyyat al-`Ulama-i Islam's party platform in 1970 and of its perceived dalliance with socialists. This brings us back to long-standing `ulama suspicion of populist appeals to socioeconomic justice. Such suspicion transcended doctrinal boundaries. A collective fatwa was issued in the course of the 1970 election campaign branding socialism as unbelief and bearing endorsements from more than one hundred `ulama of different doctrinal orientations.¹¹⁵ The `ulama had also proceeded at this time to issue an outline of the principles on which they thought an Islamic economic system ought to be based. This reiterated familiar ideas: a call for limited state regulation of the economy, an end to speculation and interest-based transactions, and the insistence that the panacea for the economic ills of the country lay in adherence to the teachings of Islam, especially those relating to zakat and the Islamic laws of inheritance.¹¹⁶ All in all, the interest of this document lay much more in signaling the `ulama's apprehensions of socialism than it did in providing any sustained statement on socioeconomic reform.

ISLAMIC ECONOMICS

A great deal has changed since the early 1970s so far as socioeconomic debates are concerned. Socialism is no longer perceived by the `ulama as representing a serious challenge to the loyalty of the young and unprivileged Muslims, and many socialists of the 1960s and 1970s have themselves turned toward Islamism, with some making their way even into the neo-Taliban leadership.¹¹⁷ In Pakistan, the Islamizing regime of General Muhammad Zia al-Haqq (1977–88) contributed its own, not insubstantial share to weakening left-leaning intellectual trends and organizations, not only

¹¹⁴ Not coincidentally, it is at this time that some of the works we have examined earlier in this chapter were published or reprinted: `Umar Faruq Khan's biography of Popalzai was published in 1970 as was a collection of Sindh's speeches and essays, *Khutbat*.

¹¹⁵ Pirzada, "Islam and Socialism," 400–1.

¹¹⁶ For a discussion of the `ulama's proposals, see Muhammad Taqi `Uthmani, "Ulama ka muttafaqa ma'ashi khaka," in idem, *Hamara ma'ashi nizami* (Karachi: Maktaba-i Dar al-`Ulum, 1994), 41–51 (the article was first published in *al-Balagh*, the monthly journal of the Dar al-`Ulum madrasa, in August 1970).

¹¹⁷ See Zahid Hussain, "From Much Sought After to 'Most Wanted,'" *Dawn*, May 31, 2009. The reference here is to Sirajuddin, once a "left-wing activist [whose] . . . transformation from a hard-core socialist to a radical Muslim came in the 1990s when like many young men he fell under the spell of Maulana Fazlullah's fiery sermons." Fazlullah is a neo-Taliban leader in the Swat region of Khyber Pakhtunkhwa. Sirajuddin, who served for a time as the spokesman of Fazlullah, is not to be confused with Sirajuddin Haqqani, the son of Jalaluddin Haqqani and another neo-Taliban leader based in the tribal areas of the Frontier. The elder Haqqani, it will be recalled, is listed among members of Qaradawi's International Union of Muslim Scholars. See [Chapter 5](#), nn. 42–3.

as an antidote to Zulfiqar Ali Bhutto's Islamic socialism but also, of course, as part of the anti-Soviet Afghan struggle in which Pakistan played a crucial role. The 1970s saw as well the flowering of "Islamic economics" and "Islamic banking," initiatives guided by the conviction that Islam had its own distinctive economic system of which the centerpiece was the elimination of interest in all its forms.¹¹⁸ Under the patronage of Saudi Arabia and other oil-rich Arab states, banks were established to provide an Islamic alternative to interest-based transactions. More recently, major Western banks have established "shari`a-compliant" financial sectors to appeal to a potentially large Muslim clientele. Prominent religious scholars, such as Muhammad Taqi `Uthmani, the vice president of the Deobandi Dar al-`Ulum madrasa of Karachi, have been associated with some of these ventures.

Those contributing to the considerable literature on Islamic economics – and, more broadly, on Islam and economics – would vehemently deny that they are indifferent to matters of social and economic justice, for, they would argue, the proper implementation of Islamic norms is sure to reduce economic disparities and to guarantee a fair and just economic system for all.¹¹⁹ Their key concerns, however, are quite different from the likes of Sindhi, Popalzai, and Seoharwi. Much of their emphasis has tended to be on arguing not only that an Islamic economic system, with its ethical moorings, is more just than anything either Western capitalism or socialism has been able to offer, but also that institutions and practices guided by the economic teachings of Islam are eminently viable in the modern world. An important goal here is to show how problems arising in modern economic life can be addressed in Islamic terms. Another concern is to demonstrate that, far from being at a loss in the face of the momentous transformations wrought by global capitalism, the `ulama can continue to provide effective guidance to the people on all matters, including those of economic life. Two scholars who have written at some length on such matters are Yusuf al-Qaradawi in the Arab world and Taqi `Uthmani in Pakistan.

Qaradawi's *The Problem of Poverty and How Islam has Dealt with It* was published in 1967, at a time when ideas of Islamic socialism were much in vogue. It seeks to guard Muslims against the attraction of socialism even as it makes considerable overtures in the direction of a statist Islam that has "declared war on poverty."¹²⁰

¹¹⁸ Writings on Islamic economics go back several decades. Timur Kuran, who has written extensively on this subject, traces them to late colonial India and sees the Islamist ideologue Sayyid Abu'l-A'la Mawdudi as playing an important role in promoting such ideas. See Timur Kuran, *Islam and Mammon: The Economic Predicaments of Islamism* (Princeton: Princeton University Press, 2004), 82–102. Already in 1945 – though Kuran does not note this – Manazir Ahsan Gilani had published a book titled "Islamic Economics" (*Islami Ma`ashiyat*). Mawdudi and Gilani were well acquainted with each other in the princely state of Hyderabad, where they had both lived, and the former may have imbibed some of Gilani's ideas on this score. An analysis of this work falls outside the purview of the present volume.

¹¹⁹ Kuran, *Islam and Mammon*, 103–20.

¹²⁰ Qaradawi, *Mushkilat al-faqr*, 43.

The statism accorded well with the stance of the Muslim Brotherhood,¹²¹ which is not coincidental given Qaradawi's long association with this organization. Like much other literature on this subject, including Sayyid Qutb's *Social Justice in Islam*, Qaradawi's work insists that Islam has its own system of ensuring "social solidarity" and that it caters to the needs of the poor better than does any other religion or ideology.¹²² At the time of writing this book, Qaradawi had already completed a large work, *The Jurisprudence of Zakat*, which was published in two volumes in 1969–71.¹²³ (His PhD dissertation, whose circuitous path we observed in the previous chapter, combined the contents of these two works together with some other, unpublished materials.)¹²⁴ Zakat is given substantial attention in his reflections on the problem of poverty as well, and it occupies center stage in his insistence on the distinctiveness and superiority of Islam's economic teachings. But he also quotes Ibn Hazm at some length to make the point that the state can obligate the rich to support the needy if the zakat revenues are insufficient for the task. Yet there are indications of some uncertainty not only in his attitude toward Ibn Hazm but also on the crucial question of whether Islam's war on poverty means that the poor might declare or prosecute it themselves. In *The Jurisprudence of Zakat*, Qaradawi quotes Ibn Hazm in full, much as Seoharwi does.¹²⁵ In the almost contemporary *Problem of Poverty*, by contrast, Qaradawi's long quotation from the relevant passage in Ibn Hazm's *Muhalla* ends – without explanation – before the point where Ibn Hazm proceeds to offer his justification for the starving man *fighting* to obtain his sustenance.¹²⁶

Some of Qaradawi's later writings address these issues in a distinctly more conservative vein than either the *Problem of Poverty* or *The Jurisprudence of Zakat*. A book titled *The Principles of Charitable Work in Islam*, first published in 2007, notes that the Islamic state is the first one in history to have declared war to secure the interests of the poor,¹²⁷ an assertion that refers to the decision of the caliph Abu Bakr (r. 632–4), the first successor of the Prophet Muhammad, to go to war against recalcitrant Arab tribes that had refused to pay their zakat taxes to the central government in the aftermath of the Prophet's death. Ibn Hazm is quoted once more, this time more briefly and again with the telling omission of any reference

¹²¹ Beinun and Lockman, *Workers*, 376–7; Gudrun Krämer, *Hasan al-Banna* (Oxford: Oneworld Publications, 2010), 116–18.

¹²² Sayyid Qutb, *al-ʿAdala al-ijtimaʿiyya fi'l-Islam*, 2nd ed. (Cairo: Dar Misr lil-tibaʿa, n.d. [ca. 1950]); William E. Shepard, *Sayyid Qutb and Islamic Activism: A Translation and Critical Analysis of Social Justice in Islam* (Leiden: Brill, 1996).

¹²³ Yusuf al-Qaradawi, *Fiqh al-zakat*, 2 vols. (Beirut: Dar al-irshad, 1969–71).

¹²⁴ Qaradawi, *Ibn al-qarya*, 3: 269–71. The title of his dissertation was "Zakat and Its Role in Solving Social Problems."

¹²⁵ Qaradawi, *Fiqh al-zakat*, 2: 981–4. Qaradawi also cites Ahmad Muhammad Shakir's gloss on Ibn Hazm's radical views on zakat. *Ibid.*, 2: 984 n. 2. For a partial translation of this gloss, see n. 100.

¹²⁶ Qaradawi, *Mushkilat al-faqr*, 137–41.

¹²⁷ Yusuf al-Qaradawi, *Usul al-ʿamal al-khayri fi'l-Islam: Fi daw al-nusus wa'l-maqasid al-sharʿiyya*, 2nd ed. (Cairo: Dar al-shuruq, 2008), 105.

to the impoverished man's violence. The statist dimension is much weaker now than it was in the *Problem of Poverty*. In that work, Qaradawi had argued that care for the poor cannot be left to the conscience of the well-off and that Islam strikes a unique balance between moral admonition and governmental regulation. That balance has tilted in the direction of the conscience and initiative of the individual in *The Principles of Charitable Work*. Toward the end of this book, Qaradawi cites a number of examples to illustrate styles of charitable giving throughout the history of Islam. There are instances from the life of the Prophet and of his companions. The fabled generosity of al-Layth b. Sa`d (d. 791), a wealthy scholar of hadith and law revered in Egypt to this day, is also commemorated here,¹²⁸ as is that of a thirteenth-century ruler of Irbil (in present-day Iraq) named Abu Sa`id Muzaffar al-din Gökbuluri (d. 1233).¹²⁹ What is remarkable about this last instance is the stress, not on the agency of the state or government, but rather on the personal piety of the ruler: his piety consists, inter alia, in establishing homes to house widows, orphans, the blind and others in need, building Sufi hospices and madrasas, providing for travelers and pilgrims, relieving those in distress, and serving as a model for other people of means. As philosopher Brian Barry would put it, justice is seen here as "a virtue not of societies but of individuals" – which, indeed, is how it was commonly viewed until modern times.¹³⁰

Qaradawi's particular emphases in *The Principles of Charitable Work* surely have to do, at least in part, with the fact that this book was written at the behest of Qatar's Red Crescent Society¹³¹ and is thus meant to promote charitable giving on the part of individual Muslims. It reflects as well Qaradawi's increasing orientation away from the state and toward nongovernmental organizations.¹³² As noted, however, it also reveals a different view of how to make a difference in the lives of ordinary people. This latter point is worth illustrating further with reference to Qaradawi's critique of some aspects of Qutb's thought.

In some of his later writings, Qutb had argued that Islamic law could only be properly implemented in a society based on a recognition of the sovereignty of God, that efforts toward a piecemeal implementation of the shari`a in societies suffused with ungodly (*jahili*) mores made no sense, and that the very willingness on the part of scholars to debate questions of Islamic law before the jahili order had been utterly uprooted was a condoning of such ungodly systems. Qaradawi's *Problem of Poverty* had expressed a somewhat similar view, although in a considerably more moderate tone than Qutb. There Qaradawi had argued that the economic teachings of Islam can only have their desired effect in a properly Islamic society and polity,

¹²⁸ Ibid., 138–9.

¹²⁹ Ibid., 140–1. Qaradawi's source of information on this ruler's generosity is Ibn Ridwan (d. 1381), *al-Shuhub al-lami`a fi'l-siyasa al-nafi`a*, ed. Sulayman Ma`tuq al-Rifa'i (Beirut: Dar al-madar al-Islami, 2002), 422–6. On Gökbuluri, see *EI*², s.v. "Begteginids" (by C. Cahen).

¹³⁰ Brian Barry, *Why Social Justice Matters* (Cambridge: Polity Press, 2005), 4.

¹³¹ Qaradawi, *Usul al-'amal al-khayri*, 17.

¹³² Salvatore, "Qaradawi's Maslaha," 248.

that a mere patchwork of Islamic teachings would not ameliorate the problem of poverty, and that anything less than a properly Islamic society and state would serve only to discredit Islam's economic teachings by ensuring their failure.¹³³ But in an essay appended to a book on "contemporary *ijtihad*," published in 1994, Qaradawi takes a very different position. He now severely castigates Qutb for the aforementioned views, though not specifically with reference to socioeconomic issues.¹³⁴ Qaradawi's reconsidered position accords well with the conviction, on prominent display in *The Principles of Charitable Work*, that individual acts of charity *can* make a large difference in improving the lives of people and that existing institutions and practices need not be uprooted in order to be reformed. This is an argument against some of the excesses that Qaradawi sees in the words and actions of many Islamists. But it is also a considerably more benign view of the socioeconomic structures of his contemporary Muslim societies than was suggested by some of his earlier writings.

Another contrast is also worth noting here, and this returns us to the tension between *socioeconomic* justice and justice for women. In at least one important instance, as seen in the previous chapter, Qaradawi's discourses on women and gender have moved away from traditionalist positions. But his views on socioeconomic issues have moved in the opposite direction.¹³⁵ The contrasting trajectories suggest an unexpected, albeit partial, parallel with one of the principal targets of Qaradawi's critiques, viz., contemporary Western neoliberalism.

The literary critic Walter Benn Michaels has argued that questions of economic inequality and of socioeconomic injustice have come to be increasingly eclipsed, in the United States in particular, by a focus on issues of identity and cultural diversity. "[F]or thirty years," Williams writes in his 2006 book, *The Trouble with Diversity*,

while the gap between the rich and the poor has grown larger, we've been urged to respect people's identities – as if the problem of poverty would be solved if we just appreciated the poor. From the economic standpoint, however, what poor people want

¹³³ Qaradawi, *Mushkilat al-faqr*, esp. 153–61.

¹³⁴ For Sayyid Qutb's views in this regard, see his *al-Islam wa mushkilat al-hadara* (N.p., 1967), 183–90. For Qaradawi's critique, see his *al-Ijtihad al-mu'asir*, 101–31. Cf. Euben and Zaman, *Princeton Readings*, 16–17.

¹³⁵ These trajectories are highlighted by another contrast. The Syrian Islamist intellectual Mustafa al-Siba'i is best known for a book on "the socialism of Islam," which showed the concord between the two even as it strongly denounced Communism. See Mustafa al-Siba'i, *Ishtirakiyyat al-Islam*, 2nd ed. (Damascus: Dar al-matbu'at al-'arabiyya, 1960); for brief discussions of this work, see Hamid Enayat, *Modern Islamic Political Thought* (London: I. B. Tauris, 2005), 144–9; Tripp, *Islam and the Moral Economy*, 94–7. Yet, as briefly observed in the previous chapter, Siba'i is also the author of a book on women that continues to uphold highly conservative Islamic views on polygamy and other matters.

is not to contribute to diversity but to minimize their contribution to it – they want to stop being poor.¹³⁶

The extremely important and hard-fought gains toward gender justice have likewise tended, he argues, to marginalize issues of socioeconomic justice. There is no necessary reason, of course, why gains in the former should be made at the expense of the latter, but Williams' point is that many people would much rather talk about racism and sexism – concerns that, together with homophobia, are now central to neoliberalism – than they would about class.¹³⁷ Indeed, talking about such forms of discrimination can serve as a way of avoiding talk about economic injustice. Even globalization, which has often been viewed by its critics on both the left and the right as undermining particular cultural identities, has served to invigorate discourses on identity and cultural diversity, Michaels says, all while diverting attention away from economic issues.¹³⁸

Admittedly, there is no neat fit between Qaradawi's discourses and contemporary neoliberalism. He makes no effort to find any grounds for tolerating homosexuality, for instance. As seen in the previous chapter, his writings on the position and rights of women would, while self-consciously seeking to rectify historical injustices,¹³⁹ fall woefully short of any liberal expectations. Qaradawi's celebration of cultural and intellectual diversity in Islamic history likewise reaches its limits quickly in the face of what he sees as external threats to Islamic identity. A growing emphasis on identity, unmistakable in his later writings and in his institutional ventures, is nonetheless evocative of neoliberal sensibilities; so, too, is the keen attention to Muslim women. If Michaels is right in arguing that an increasing focus on such issues represents a retreat from socioeconomic justice in neoliberal thought and action, something similar might well be said of Qaradawi as well.

Taqi `Uthmani of Pakistan has not had to make any such retreat because issues of social justice have never been prominent in his discourses. Islamic economics, however, have been at the forefront of his concerns, indeed much more so than for Qaradawi. In some of his writings, Taqi `Uthmani has observed that the `ulama have tended to limit themselves to a narrow set of issues relating to belief and ritual with the result that even those who defer to their authority often assume, not incorrectly, that they have nothing worthwhile to say on economic issues and, by extension, on other matters of contemporary interest. But "to not know the people of one's own age is to be truly ignorant (*jahil*)," he says, quoting earlier jurists. Nor is it enough for the `ulama simply to characterize particular acts

¹³⁶ Walter Benn Michaels, *The Trouble with Diversity: How We Learned to Love Identity and Ignore Inequality* (New York: Metropolitan Books, 2006), 7.

¹³⁷ See Walter Benn Michaels, "What Matters," *London Review of Books*, August 27, 2009.

¹³⁸ Michaels, *Trouble With Diversity*, 158–9.

¹³⁹ Cf. Yusuf al-Qaradawi et al., *Fatawa al-nisa*, ed. Nasr Sulayman and Su'ad Suthi (Beirut: Mu'assasat al-risala, 2007), 503.

as illicit; they also need to guide people to alternatives, which requires intimate familiarity with modern institutions and practices.¹⁴⁰ Living up to this challenge, he has written extensively on matters relating to Islamic economics. For two decades (1982–2002), he served as a judge on the Shari‘at Appellate Bench of the Supreme Court of Pakistan and part of his writing on this subject, including a major judgment on the impermissibility of all forms of financial interest, took place during his judicial tenure. He is the author of a book in English titled *Introduction to Islamic Finance*,¹⁴¹ and a collection of his various writings on “Islam and modern economic problems” has recently been published in Urdu in eight volumes.¹⁴²

The contents of these volumes are wide ranging. Four volumes are devoted to matters relating to buying and selling; two to Islamic banking and financial interest; a volume to essays on different aspects of “the economic system of Islam”; and the final, eighth, volume to agriculture and the ownership of land. Despite this impressive range, however, there is very little here specifically on socioeconomic justice. We encounter the familiar refrain that Islam offers an economic blueprint superior to both capitalism and socialism, and the ills of both capitalism and socialism are recounted in some detail. Taqi ‘Uthmani takes particular exception to the view – endorsed by ‘ulama like Abu ‘Ammar Zahid al-Rashidi during the 1970 election campaign¹⁴³ – that just as one can speak of an “Islamic democracy,” so, too, might one speak of an “Islamic socialism,” that is, a socialism divested of its un-Islamic features. But Islamic socialism is a contradiction in terms, Taqi ‘Uthmani insists, in a way that Islamic democracy is not; Islam fully accepts the right to private property while socialism denies it, making an Islamic socialism as much an oxymoron as Islamic interest or Islamic gambling. If there is any danger of confusing Islam with capitalist exploitation, the proper way to signal the distance between the two is not to condone Islamic socialism but, he counsels, to speak rather in terms of Islamic social justice (*Islami ‘adl-i ‘umrani*).¹⁴⁴ Yet Taqi ‘Uthmani himself does not speak much in these terms. He would, of course, argue that doing so is unnecessary, for socioeconomic injustice, like all other ills, is taken care of once the totality of Islamic teachings is properly adhered to. But it is also clear that his main interest is in demonstrating the compatibility between Islam and modern economics rather than in social justice.

¹⁴⁰ Muhammad Taqi ‘Uthmani, “Mu‘amalat-i jadida awr ‘ulama ki dhimma-dariyan,” in idem, *Islam awr jadid ma‘ashi masa’il*, ed. Mufti Mahmud Ahmad, 8 vols. (Lahore: Idara-i Islamiyyat, 2008), 1: 65–79.

¹⁴¹ Muhammad Taqi Usmani [‘Uthmani], *Introduction to Islamic Finance* (Hague: Kluwer Law International, 2002).

¹⁴² See n. 140.

¹⁴³ Sayyid A. S. Pirzada, *The Politics of the Jamiat Ulema-i-Islam Pakistan* (Karachi: Oxford University Press, 2000), 30; cf. Zahid al-Rashidi, *Ijtihad*, 319.

¹⁴⁴ ‘Uthmani, *Islam awr jadid ma‘ashi masa’il*, 7: 147–8. The words “Islamic social justice” are also used in English here.

The virtual silence on issues of social justice may reflect not only Taqi `Uthmani's own intellectual proclivities but also, as we have observed, long-standing `ulama misgivings on this score. In the early 1930s, his father, Mufti Muhammad Shafi` – then a leading jurisconsult at the madrasa in Deoband and a disciple of Ashraf `Ali Thanawi – had written a short tract berating those who sought to hide their lowly social origins by claiming fictive genealogies and, more generally, those claiming that matters of social hierarchy had no place in Islam. Shafi`'s tract had caused such uproar that the Deoband establishment decided to withdraw it, reissuing it only after its tone and some of its content had been revised.¹⁴⁵ Shafi` had been among the most prominent of the Deobandi `ulama to support the demand for Pakistan and, after emigrating to the new Muslim homeland, he participated actively in debates on the place of Islam in public life. He also remained a vocal critic of appeals to Islamic socialism, even asserting on one occasion prior to the 1970 elections that appeals to equality (*musawat*), as the socialists invoked it, were un-Islamic.¹⁴⁶ It is this Deobandi strand that Taqi `Uthmani and his Dar al-`Ulum have inherited.

As a judge on the Shari`at Appellate Bench of the Supreme Court – established by General Zia al-Haq as part of his Islamization campaign – but in other respects as well, Taqi `Uthmani has been a beneficiary of state patronage. His considerable and widely respected expertise in Islamic economics has also enabled him to serve on the boards of a number of international financial institutions,¹⁴⁷ which has not only brought further international recognition to him but presumably also some monetary gain. Thanks to all this, but above all to his intellectual gifts, Taqi `Uthmani has emerged as one of the most prominent of the `ulama in South Asia. Indeed, to the extent that the Pakistani Islamists and the `ulama have been able to speak in a shared voice at all, Taqi `Uthmani has given articulate expression to it – not unlike the Islamist ideologue Sayyid Abu'l-A`la Mawdudi (d. 1979) in an earlier generation. Inasmuch as Taqi `Uthmani's Dar al-`Ulum, one of the largest madrasas in South Asia, represents a decidedly conservative stance on matters of socioeconomic justice, the intellectual prominence that he and this institution enjoy has arguably contributed to a certain marginalization of such issues in the religious discourse of Pakistan's leading Deobandis. This is not to ignore the fact that the problem of socioeconomic justice has never been central to Deobandis or, for that matter, to other `ulama. Nor is it to neglect the relevance of the larger context – the decline of socialism, the persecution of left-leaning trends during the Islamization campaign of General Zia al-Haq, the

¹⁴⁵ Mufti Muhammad Shafi`, "Nihayat al-arab fi ghayat al-nasab: Islam awr nasabi imtiyazat," in idem, *Jawahir al-fiqh*, 2 vols. (Karachi: Maktaba-i Dar al-`Ulum, 1975), 2: 69–110. On the controversy generated by this fatwa, see the preface to the second edition by Sayyid Asghar Husayn, *ibid.*, 71–2. The first edition was published in 1932, and the second edition, reprinted in Shafi`'s *Jawahir al-fiqh*, in 1934.

¹⁴⁶ Pirzada, "Islam and Socialism," 399.

¹⁴⁷ Cf. Jeremy Harding, "The Money that Prays," *London Review of Books*, April 30, 2009.

rise of Islamic economics as a global phenomenon – that has shaped the debate on this subject. Even so, the intellectual standing that Taqi `Uthmani and his madrasa have enjoyed in the Pakistani religious sphere seems also to have aided this development.

By his own example, Taqi `Uthmani has shown that the `ulama can and should adapt themselves to modern challenges and that doing so carries dividends. Far from resisting the acquisition of modern, Western sciences, some leading Pakistani madrasas now encourage their students to enroll in MBA programs. It is also worth mentioning that Taqi `Uthmani's son and nephew – the latter is the son of his elder brother, Mufti Muhammad Rafi `Uthmani, the president of the Dar al-`Ulum – have both earned PhDs from Pakistani universities besides degrees from the Dar al-`Ulum madrasa. Their dissertations, now published, are concerned with showing how particular modern economic problems are to be addressed in terms of Islamic law.¹⁴⁸ The very effectiveness with which such `ulama exemplify their adaptation to modern economic and other challenges in a globalized world may, ironically, have contributed to further marginalizing issues of socioeconomic justice in Deobandi discourse, at least in Pakistan.

Yet such issues have not ceased to have their advocates. To the extent that the rise of the Pakistani Taliban can, in fact, be related to socioeconomic grievances, theirs is the most brutally extreme manner of calling attention to them. How other Deobandis have responded to Taliban militancy is a question we will examine further in the next chapter, in the broader context of the ambiguities of the `ulama's discourses on violence. But some among more respectable Deobandis have also sought to bring issues of socioeconomic justice back into public discussion. A notable example is Zahid al-Rashidi of the Nusrat al-`Ulum madrasa in the Punjab, whom we have encountered on several previous occasions. An essay he published in December 2009, castigating the "class-based" (*tabaqati*) structures of Pakistani society and economy and calling for "revolutionary change in both the economic system and in social attitudes," offers a useful illustration of his thinking.¹⁴⁹

In the first instance, Zahid al-Rashidi's criticism in this essay centers on the living conditions of ordinary religious functionaries (mosque imams and preachers, madrasa teachers, and others associated with such institutions), who, he says, have often been placed in many rural and urban areas at the lowest rungs of the socioeconomic hierarchy. However, his broader concern is with the continuing existence of stark socioeconomic disparities and the urgent need to remedy them. Zahid al-Rashidi quotes a strongly worded statement in which Muhammad `Ali Jinnah, the founding father of Pakistan, had castigated the oppressive ways of "the

¹⁴⁸ Muhammad `Imran Ashraf `Uthmani, *Shirkat wa mudarabat `asr-i hadir men* (Karachi: Idarat al-ma`arif, 2001); Muhammad Zubayr Ashraf `Uthmani, *Jadid ma`ashi nizam men Islami qanun-i ijara*. The former is Taqi `Uthmani's son, the latter, his nephew.

¹⁴⁹ Abu `Ammar Zahid al-Rashidi, "Ma`ashi nizam awr ma`ashi rawiye main inqilabi tabdili ki darurat," *Pakistan*, December 8–9, 2009.

landlords and capitalists.”¹⁵⁰ His point is, of course, that Jinnah’s vision of Pakistan had no room for them, although the irony that the success of the movement for Pakistan had depended a good deal on the support of large landholders is entirely lost on him. Zahid al-Rashidi also takes his readers back to a significant disagreement between Abu Bakr and `Umar, two of Muhammad’s closest companions who successively served as caliphs after the Prophet’s death.

The story of this disagreement is recounted by the eighth-century Hanafi judge Abu Yusuf (d. 798), whom Zahid al-Rashidi cites here, as well as by other sources.¹⁵¹ When the first spoils of the early Islamic conquests began to arrive in the capital, Medina, Abu Bakr was confronted with the question of how to divide them among his fellow Muslims. Some of his aides counseled distributing them according to people’s religious standing, as determined by the services they had rendered to the nascent faith. Abu Bakr overruled that advice on the grounds that it was for God to reward people for such services. “On the [worldly] matter of livelihood,” he is reported to have said, “equality is better than [ranking by] preference.” When `Umar became caliph, however, he instituted the system of awarding stipends to the Arab Muslims on the basis precisely of their religious standing in the Muslim community. Tellingly, Zahid al-Rashidi sides with Abu Bakr rather than `Umar on this issue, with the implication that there should be no significant economic disparities among members of a Muslim society. In his *Social Justice in Islam*, Sayyid Qutb, too, had recounted this disagreement between Abu Bakr and `Umar and had observed that “we have no hesitation in adopting Abu Bakr’s view in that it is closer to the spirit of Islam . . .”¹⁵² Zahid al-Rashidi does not refer to Qutb here. Nor does he note, any more than had Qutb, the implications of the fact that the Rashidun caliphate was a conquest society and a highly unstable one at that. One would assume that he would disavow these aspects of that nascent community’s example, so far as Pakistan is concerned. Apart from calling for a severe reduction in disparities between the salaries of government officials, he is also silent on how thoroughgoing his proposed economic leveling will be, precisely how it would be implemented, and what consequences it would have for the efficient running of the Pakistani economy.

Unanswered questions notwithstanding, Zahid al-Rashidi’s essay is a reminder that calls for socioeconomic justice have continued to echo in `ulama circles. As a young member of the Jam`iyyat al-`Ulama-i Islam during the 1970 election campaign, he was among those who had helped put socioeconomic issues at the

¹⁵⁰ For the passage Zahid al-Rashidi quotes in Urdu translation from Jinnah’s presidential address at the thirtieth session of the All India Muslim League in Delhi in April 1943, see Jamil-ud-din Ahmad, ed., *Speeches and Writings of Mr. Jinnah*, 6th ed. (Lahore: Shaikh Muhammad Ashraf, 1960), 1: 507.

¹⁵¹ See Abu Yusuf, *Kitab al-kharaj*, ed. Ihsan `Abbas (Cairo: Dar al-shuruq, 1985), 140–8 (#51–7). Zahid al-Rashidi also cites Abu `Ubayd al-Qasim b. Sallam, *Kitab al-amwal*, ed. `Abd al-Amir `Ali Muhanna (Beirut: Dar al-hadath, 1988), 267–8 (#648–53).

¹⁵² Qutb, *al-`Adala al-ijtima`iyya*, 204–8; quotation from p. 206. Shepard, *Sayyid Qutb and Islamic Activism*, 249–53.

center of the party's concerns. He had even argued, as would be recalled, that one could speak of "Islamic socialism" just as one could postulate an "Islamic democracy." In his 2009 essay, Zahid al-Rashidi observes that such voices are weaker now than they were in an earlier generation.¹⁵³ He does not attempt to explain why this is so, though the foregoing discussion should provide elements of an answer.



DESPITE THE VICISSITUDES OF THE `ULAMA'S ENGAGEMENT WITH IT, socioeconomic justice has continued, then, to be a site of contestation within and beyond their ranks. Zahid al-Rashidi's essay can be seen as an implicit critique of those among the `ulama who have remained insufficiently attentive to the problem of social justice. In this respect, he follows a venerable tradition. As noted in [Chapter 4](#), some contemporary `ulama have been more explicitly critical of Taqi `Uthmani's initiatives in Islamic finance.¹⁵⁴ Though the ostensible worry of these scholars is that Islamic banking and its attendant financial instruments are far less "Islamic" than its defenders would have one believe, there is an undercurrent of discomfort as well with the eager embrace of (a superficially Islamized) global capitalism. Such critiques belong as well, albeit indirectly, to the discourses on social justice.

The Taliban, for their part, have come to pose their own challenge to the `ulama and allied groups. They have sometimes targeted religious scholars and, although some of these had provoked their ire by opposing their violent ways,¹⁵⁵ others are deemed culpable simply for being on the wrong side. Fazlur Rahman, the leader of one faction of the Deobandi religiopolitical organization, the Jam`iyyat al-`Ulama-i Islam (and not to be confused with the noted modernist of the same name), offers an instructive illustration here. When the Taliban of Afghanistan were in power (1996–2001), Fazlur Rahman's party was closely associated with them, and he has continued to urge Pakistani and U.S. administrations to negotiate with (rather than to militarily suppress) the neo-Taliban groups. Despite his unapologetically pro-Taliban stance, Fazlur Rahman has remained allied with successive governments, which have seen his support as vital both to negotiating with the militants and – in view of the political influence his party has long enjoyed in certain parts of Khyber Pakhtunkhwa – with holding together fragile ruling coalitions. Ironically, as the Pakistani Taliban have become increasingly radicalized, Fazlur Rahman and his party have themselves come under attack at their hands. As a leaked 2006 U.S. diplomatic cable reported, citing sources in his party, "many of the so-called pro-government tribal and religious leaders who have been killed

¹⁵³ Zahid al-Rashidi, "Ma'ashi nizam."

¹⁵⁴ Cf. Muhammad Tasin, *Mutabadil sudi nizam ke da'we* (Karachi: Gosha-i `ilm wa tahqiq, 2001), esp. 128–79.

¹⁵⁵ See [Chapter 8](#).

were actually... [the party's] sympathizers."¹⁵⁶ Fazlur Rahman himself escaped two assassination attempts by suicide bombers in March and April 2011.¹⁵⁷ It is not clear how much Fazlur Rahman's disrepute with the Taliban has to do with socioeconomic rather than other issues. However, as another U.S. diplomatic cable reported in 2007 in anticipation of Pakistani general elections, what *is* clear is that he saw himself "in the increasingly lucrative position of being kingmaker" and, indeed, that "his still significant number of votes [were] up for sale."¹⁵⁸ This sort of "lucrative" relationship with the Pakistani political establishment has apparently not gone down well with Taliban militants.

Deobandi `ulama of Pakistan have sometimes tried to justify their failure to take a strong position against the Taliban by lamenting the limits of their influence with them. On occasion, as will be seen further in the next chapter, they have referred to the Taliban's "emotional" reaction to the destruction that has accompanied Pakistani and U.S. military operations against them, which, we are given to understand, makes them unreceptive to the senior `ulama's counsel for moderation.¹⁵⁹ And they have argued that the government's "anti-Islam policies" have undermined the moral authority of the `ulama.¹⁶⁰ That is, the policies in question have discredited both the governing elite *and* the `ulama willing to do business with the government.

Yet, insomuch as religious and moral authority is shaped by a complex of factors, it is worth asking whether the `ulama's relative inattention to socioeconomic issues may have had some cost as well in terms of the authority they carry in particular settings. In many instances, the men of religion might be too weak in their social standing and too vulnerable to local pressures to do much about the circumstances in which their communities find themselves. But that may not always be the case. Particular paths are also *chosen*, as we saw in the previous chapter. The aforementioned Fazlur Rahman's own father, Mufti Mahmud (d. 1980), was among leaders of the Jam'iyyat al-'Ulama-i Islam who had wanted to foreground socioeconomic issues in the party's platform.¹⁶¹ As Zahid al-Rashidi notes in a recent selection from Mufti Mahmud's statements on economic issues, a large gap has come to

¹⁵⁶ "FATA: Pakistani Taliban Threaten JUI-F Interests," U.S. Embassy, Islamabad, June 30, 2006, #69858. Published on <http://www.Dawn.com> (accessed May 27, 2011).

¹⁵⁷ "Suicide Bomber Targets Maulana Fazl's Convoy; 10 Killed," *Dawn*, March 31, 2011; "Fazl Escapes Second Attack in Two Days," *Dawn*, April 1, 2011.

¹⁵⁸ "Ambassador Discusses Elections with Fazlur Rehman," U.S. Embassy, Islamabad, November 27, 2007, #131658. Published on <http://www.Dawn.com> (accessed June 1, 2011).

¹⁵⁹ Author's interview with Muhammad Rafi `Uthmani, president of Karachi's Dar al-'Ulum madrasa (Islamabad, August 3, 2009).

¹⁶⁰ In 2007, the American ambassador, too, was told by Fazlur Rahman that his party "was trying to pacify the Federally Administered Tribal Areas (FATA) but 'the people didn't always listen to them.'" See cable #131658 (November 27, 2007): "Ambassador Discusses Elections with Fazlur Rehman."

¹⁶¹ Pirzada, "Islam and Socialism."

separate “us from him” over the decades since his death.¹⁶² This is hardly to say that `ulama with robust socioeconomic commitments would necessarily have fared better in dealing with the Taliban. Nor can the latter’s insurgency be reduced to socioeconomic factors. The point is only that the perception of a certain lack of socioeconomic engagement on the part of the `ulama may not be altogether unrelated to the diminished influence they sometimes lament. Ironically, the Taliban themselves seem to have contributed more than many others to the continuing marginalization of the problem of social justice. If some of their actions had initially pointed to socioeconomic issues, the campaign of terror that they have unleashed throughout the country has tended to move the focus elsewhere. The threat of violence is endemic to calls for social justice, as we have seen. At the hands of the Taliban, it has upstaged everything else.

¹⁶² Zahid al-Rashidi, “Hamare ma`ashi masa’il awr Mufti Mahmud ke afkar wa khayalat,” *al-Shari`a* 21/11 (November 2010): 2–3; quotation at p. 2.



Denouncing Violence: The Ambiguities of a Discourse

ALTHOUGH VIOLENCE IN PAKISTAN IN THE YEARS FOLLOWING THE terrorist attacks of September 11, 2001, has become synonymous with al-Qa`ida and especially the Taliban, I begin not with them but rather with Yusuf al-Qaradawi, the author of the most extensive Muslim discussion produced in the aftermath of 9/11 to grapple with issues of war, violence, and terrorism. One of the main concerns of this chapter is to examine the substance, rhetoric, and ambiguities of Qaradawi's book, the nearly 1,400-page-long *Jurisprudence of Jihad*. As he sees it, misunderstandings about jihad are most pervasive among militant and other Islamists, and they are the primary audience of his book. But there are plenty of other misunderstandings, or misrepresentations, of jihad to go around in other circles, and there are many, besides the Islamists, who are said to need this work. Among these, Qaradawi lists the traditionally educated Muslim jurists, lawyers trained in the modern legal traditions, historians, "Orientalists," those concerned with interfaith and inter-civilization dialogue, politicians, military men, and, not least, the general reading public.¹ Though the sheer range of his presumed audience underscores the pervasiveness of misconceptions about jihad, Qaradawi does not make any serious attempt to consistently address all components of this readership. I, too, will not try to examine what he expects each section of this imagined audience to take away from his book. I am interested, rather, in his stance as a self-conscious critic of certain kinds of violence; the tensions and elisions his internal criticism points to; and the claims to religious authority that are at stake in the desire to both reaffirm and to redraw particular boundaries, to both defend and rethink Islam.

My second concern in this chapter is with Deobandi discourses on jihad and terrorism, before and especially after the events of 9/11 and in both Pakistan and India. There has not been much direct or documented exchange of ideas between Qaradawi and the South Asian `ulama on these questions, but they have all dealt with shared issues. Among the most important of these in recent years is the question of suicide bombing. I examine the discussion of this question – in Qaradawi's work and in South Asia – at some length both to illustrate the ambiguities of the `ulama's positions on it and as a crucially important site of their

¹ Qaradawi, *Fiqh al-jihad*, 1: 30–8. Most subsequent references to the book will be in text.

contemporary engagement with the medieval tradition. This debate is, of course, embedded in their broader discourses on jihad, and it is with some facets of these, as Qaradawi presents them to his readers, that I begin.

THE ISLAMIC LEGAL TRADITION AND THE NON-MUSLIM OUTSIDER

As seen in [Chapter 2](#), one of Qaradawi's key arguments in his *Jurisprudence of Jihad* is that a distinction ought to be made between a "defensive jihad" (*jihad al-daf*) and a "jihad of choice" (*jihad al-talab*). The former concerns situations when Muslims have been attacked by non-Muslims; their lives, property, religion, and honor are in jeopardy; and their lands have been, or are in danger of being, occupied. In such circumstances, jihad becomes an "individual obligation" (*fard `ayn*), which is to say that every single Muslim must take up arms or otherwise assist the war effort. Further, if the Muslims of the region under direct attack are unable or unwilling to repel the enemy, the obligation falls on Muslims of the adjoining regions and so forth until it encompasses the Muslim world at large. A jihad of choice refers, by contrast, to situations in which Muslims have taken the initiative in attacking the enemy (1: 54–5). The specific terms Qaradawi uses to distinguish the two kinds of jihad are his own, though the distinction itself is well attested in the Islamic juridical tradition.² He parts company with much of that tradition, however, when he goes on to argue that a jihad of choice is not an obligation, at least not in the way many medieval jurists have conceived of it. If the enemy is not a direct threat to Muslim well-being, it is not only prudent, he says, but also religiously justified to leave it alone. In this and other contexts, Qaradawi refers frequently to the noted Hanafi jurist Abu Bakr al-Jassas (d. 981), and it is worth briefly examining how Jassas views the issues in question.

In his *Ahkam al-Qur'an*, Jassas observes that there is no disagreement among the scholars on the obligation of Muslims to defend their frontiers in the event that they are attacked by the enemy. The disagreement, he says, concerns the question of whether it is permissible for Muslims to desist from warfare in cases in which they are not directly threatened. That is, should Muslims continue their warfare until the enemy submits and agrees to pay the poll-tax (*jizya*), or would it be Islamically acceptable to leave the enemy alone until such time as it comes to pose a direct threat to the Muslim territories? Jassas reports that several leading figures among the early Muslims (including `Abdallah b. `Umar [d. 693], `Ata b. Abi Rabah [d. 732], `Amr b. Dinar [d. ca. 744], and Ibn Shubruma [d. 761]) were, indeed, of

² Qaradawi seems to be loosely basing his terminology here on Ibn Taymiyya, who speaks of "fighting by necessity (*qital idtirar*) – which is a matter of defending (*daf`an*) religion, inviolable things, and life – and fighting by choice (*qital ikhtiyar*), which is for the expansion and elevation of religion and to frighten off the enemy." Ibn Taymiyya, *al-Siyasa al-shar'iyya*, ed. `Ali Sami al-Nashshar and Ahmad Zaki `Atiyya, 2nd ed. (Cairo: Dar al-kitab al-`Arabi, 1951), 138.

the view that the Muslims and their rulers were within their rights not to go after the non-Muslim foe unless threatened by the latter. But others held, Jassas tells us, that the ruler must prosecute continuous warfare against the enemy until it submits and pays the *jizya*. “And this,” Jassas says, “is [also] the view of our scholars (*ashabuna*),” that is, of the Hanafis.³

Qaradawi explicitly invokes Jassas in making his distinction between defensive jihad and a jihad of choice,⁴ but it is not quite how Jassas had meant it. For Jassas and many other medieval jurists writing on the subject of war, a key question is how to distinguish between jihad as an obligation that falls on every single Muslim and one that some members of the Muslim community can fulfill on behalf of the others (*fard `ala'l-kifaya*). The latter, too, is a binding obligation, however, and if no one in the community fulfills it, the community as a whole is deemed to have sinned. To these jurists, what Qaradawi calls a jihad of choice is not really a matter of choice at all, because some people *do* need to continually undertake it on behalf of the generality of Muslims. And, in any case, the Hanafi view Jassas presents does not approve of an indefinite ceasing of hostilities prior to the enemy’s submission.

Jassas is also cited to make the point that, in Qaradawi’s words, “the fighting that is obligatory on the community . . . is the fighting against those who do battle with it . . . For God has not commanded us to fight mankind in general . . .”⁵ This is a faithful rendering of Jassas’s argument that, in some contexts, “fighting” is not a general and unrestricted imperative but one restricted to those who attack Muslims.⁶ Elsewhere, however, Jassas argues that Qur’anic passages prescribing fighting only when fought (Q 2.190: “Fight in God’s cause against those who fight you, but do not overstep the limits: God does not love those who overstep the limits”) are to be deemed abrogated by other verses (Q 2.191: “Kill them wherever you encounter them, and drive them out from where they drove you out, for persecution is more serious than killing . . .”). Inasmuch as killing unbelievers “wherever you encounter them” would have been to “overstep the limits” from the perspective of the previous verse, it is no longer operative, Jassas says, in view of Q 2.191.⁷ The first of the two verses is likewise abrogated, Jassas tells us, by Q 9.5 (“ . . . wherever you find the polytheists, kill them . . .”). Jassas notes that scholars such as Ibn Shubruma and Sufyan al-Thawri (d. 778) hold that verses such as Q 2.190 and others in a similar vein were not abrogated, so that it is permissible for Muslims not to fight those who do not fight them. But, he comments, “the disagreement is only on whether it is *permissible* to not fight them [i.e., the unbelievers]. But no one holds that it is prohibited to do so. There is consensus (*al-ittifaq*) among all

³ Jassas, *Ahkam*, 3: 114.

⁴ Qaradawi, *Fiqh al-jihad*, 1: 64–5.

⁵ *Ibid.*, 1: 70–1; quotation at p. 71.

⁶ Jassas, *Ahkam*, 1: 321.

⁷ *Ibid.*, 1: 258; Qaradawi, *Fiqh al-jihad*, 1: 260–1.

on the abrogation of the prohibition of fighting those who fit the description that we have mentioned . . . ”⁸

Qaradawi parts company with Jassas in no uncertain terms here. “The prohibition against ‘overstepping the limits’ (*al-i`tida*) cannot be conceived of as being abrogated,” he says, “for it is explained by a rationale that does not admit of abrogation, viz. that ‘God does not love those who overstep the limits.’ This is a statement about *God*, which cannot be abrogated. Further, overstepping the limits is injustice (*zulm*), and God never allows injustice.”⁹ As for Jassas’s other assertions, Qaradawi is equally unsparing:

It is strange how the imam Jassas can set aside clear Qur’anic statements prohibiting fighting those of the unbelievers who desist from fighting us and withdraw – such as God’s words: “. . . So if they withdraw and do not fight you, and offer you peace, then God gives you no way against them” [Q 4.90] – with the claim that he doesn’t know anyone who affirms such prohibition. Is the Qur’an not enough for us as an argument so that we have to search for the views of every Tom, Dick, and Harry (*Zayd aw`Amr min al-nas*)? (1: 461).

Invoking the Hanafi juridical tradition on the laws of war, Qaradawi also engages in some creative hermeneutics to argue that the reason for fighting unbelievers is not their unbelief but rather their beginning hostilities against Muslims (1: 373–6). He extrapolates this from the Hanafi view that, in the course of a war, women, children, the old, and the infirm are to be left unharmed (1: 373–5). They would not have been left alone, he says, if the reason for waging war had been mere unbelief;¹⁰ and, indeed, al-Shafi`i (d. 820), the eponymous founder of the school of Sunni law that carries his name, did hold that it was permissible to kill such people *because* they are unbelievers. A different view is also found in Shafi`i circles, however, and Qaradawi counsels the contemporary Shafi`is to follow the more moderate view “especially on major issues that have global implications for thought, practice, and international relations – all the more so when the Qur’an and the normative example of the Prophet also support that view” (1: 376).¹¹

It is worth noting that although Qaradawi is certainly correct in reporting the Hanafi view on sparing the most vulnerable of the noncombatants, his extrapolation from it is again contradicted by the Hanafi sources. In line with Jassas’s aforementioned views, with which Qaradawi expresses such discomfort, these

⁸ Jassas, *Ahkam*, 2: 221–2; Qaradawi, *Fiqh al-jihad*, 1: 461.

⁹ Qaradawi, *Fiqh al-jihad*, 1: 261. Cf. Ibn Taymiyya, *Qa`ida mukhtasara*, 113–14; also *ibid.*, 92.

¹⁰ E.g., Qaradawi, *Fiqh al-jihad*, 2: 1160.

¹¹ Elsewhere, Qaradawi extends the idea that the unbelievers are not fought simply on account of their unbelief to argue that mere unbelief is insufficient as the justification for not being friends with non-Muslims. One can be on good terms with them, he says, and those Qur’anic verses that have often been adduced to argue otherwise (e.g., Q 60.1; Q 5.51) relate only to those non-Muslims who show themselves as unfriendly toward Muslims: *Fiqh al-Jihad*, 2: 1145–6. Cf. March, *Islam and Liberal Citizenship*, 229–36.

sources note that it is *not* necessary for non-Muslims to have commenced hostilities before Muslim forces can attack the enemy.¹² And they explicitly refute the aforementioned Sufyan al-Thawri's view that Muslims should fight only when they are fought¹³ or that fighting is a matter of choice rather than an obligation.¹⁴ The Hanafi sources do not say that mere unbelief is the reason why the unbelievers should be attacked, and to that extent, Qaradawi is correct.¹⁵ Nor do they say, however, that Muslim warfare must necessarily be defensive – that is, a response to non-Muslim aggression – and here Qaradawi's extrapolations from the Hanafi laws of war are not borne out by standard Hanafi views on when or why a resort to war might be justified.¹⁶

Qaradawi invokes as well a short work by the Hanbali scholar Ibn Taymiyya (d. 1328) on why the unbelievers are to be fought.¹⁷ The reason for this, according to Ibn Taymiyya, is not unbelief itself but the fact that the unbelievers represent a threat to Muslims. Thus, it is only able-bodied men who are fought and killed in the course of a military campaign. If the command to fight unbelievers had to do simply with the fact that they were unbelievers, it would make no sense to spare anyone among them.¹⁸ Nor would it make sense to stop fighting once the unbelievers agreed to pay the *jizya* as a mark of their submission. The tone and content of this discussion make clear that Ibn Taymiyya is speaking here primarily of the rules governing war and specifically the question of who is to be counted among enemy combatants. In the course of discussing these rules, however, Ibn Taymiyya also asserts – uncharacteristically for premodern scholars – that the battles in which the Prophet Muhammad had engaged were all defensive: “he never began hostilities against any unbeliever.”¹⁹ Ibn Taymiyya does not explicitly link the two arguments, *viz.*, that the reason for fighting unbelievers is not their unbelief but the threat they represent *and* his argument regarding the defensive character of the Prophet's military campaigns. Nor does the former argument lead Ibn Taymiyya to conclude that Muslims must therefore never attack the enemy without provocation. It is left to Qaradawi to draw that conclusion, with Ibn

¹² For example, Marghinani, *al-Hidaya*, 2: 809; Ibn al-Humam, *Sharh fath al-qadir*, 8 vols. (Bulaq: al-Matba'a al-kubra al-amiriyya, 1898), 4: 282; al-Babarti, *Sharh al-'inaya 'ala'l-Hidaya*, on the margins of Ibn al-Humam, *Sharh fath al-qadir*, 4: 282; Badr al-din al-'Ayni, *al-Binaya fi sharh al-hidaya*, 12 vols. (Beirut: Dar al-fikr, 1990), 6: 493.

¹³ Ibn al-Humam, *Sharh fath al-qadir*, 4: 282; 'Ayni, *al-Binaya*, 6: 493.

¹⁴ Ibn al-Humam, *Sharh fath al-qadir*, 4: 279; cf. 'Ayni, *al-Binaya*, 6: 491. Also see al-Jassas, *Sharh mukhtasar al-Tahawi*, 8 vols., ed. Zaynab Muhammad Hasan Fallata et al. (Beirut: Dar al-basha'ir, 2010), 7: 5–6.

¹⁵ Cf. *EL*², s.v. “Sulh” (by M. Khadduri).

¹⁶ It is worth noting that Qaradawi's discussion of Jassas and of the Hanafi tradition has remained unchanged in subsequent editions of his book.

¹⁷ Qaradawi, *Fiqh al-jihad*, 1: 335–6, 376–83, 386.

¹⁸ Ibn Taymiyya, *Qa'ida mukhtasara*, 188.

¹⁹ *Ibid.*, 134; Patricia Crone, “‘No Compulsion in Religion’: Q. 2: 256 in Medieval and Modern Interpretation,” in *Le Shi'isme imamite quraranante ans après: Hommage à Etan Kohlberg*, ed. M. A. Amir-Moezzi, M. M. Bar-Asher, and S. Hopkins (Paris: Brepols, 2009), 141–2, 159.

Taymiyya's brief treatise as his prized exhibit. Qaradawi also quotes from a brief discussion of the same question – which is essentially a summary of Ibn Taymiyya's discussion – by the eighteenth-century Yemeni scholar Ibn al-Amir al-San`ani (d. 1769). San`ani's tract is appended in full to Qaradawi's *Jurisprudence of Jihad*.²⁰ I will briefly return to Ibn Taymiyya and al-San`ani later in this chapter.

THE INFIDEL WITHIN

The question of the proper attitude to be adopted toward non-Muslims and toward jihad in relation to them is obviously of great moment in the post-9/11 age, and Qaradawi returns to it frequently in his book. But equally pressing is the problem of what to do about corrupt, irreligious, and sometimes antireligious Muslim regimes and what the proper stance is toward various kinds of Islamically unacceptable behavior *within* Muslim societies.

Qaradawi takes an expansive view of oppression, including not just despotic rulers and their henchmen but also the injustices meted out by the rich to the poor, the owners of property and means of production toward their tenants and laborers, the military officers toward their rank and file, and, not least, men toward women (1: 170–2, esp. 171). We are told, furthermore, that there are many kinds of dissolute and immoral conduct, on the one hand, and of intellectual waywardness, on the other. The latter, for instance, consists in “creating in religion what doesn't belong to it, adding to it what its nature does not accept so far as its belief, law, ethics, and traditions (*taqalid*) are concerned, and putting forth ideas that contradict its beliefs, laws, and values” (1: 177). Such waywardness is a short step from actual apostasy from Islam, Qaradawi says; it threatens the very identity of the Muslim community and is comparable to treason (1: 180ff.). There are instances, he notes, although usually without naming names, when the ruling elite are themselves guilty of apostasy and, by implication, of treason. This happens when the rulers willfully contravene Islamic law and its foundational sources, insult what the community holds sacrosanct, and consider the observance of Islamic norms to be a mark of fanaticism (1: 187–9, esp. 188). Even as they persecute the “genuine” scholars and preachers of Islam, they marshal their own pseudo-scholars to justify their wayward practices and, indeed, to “strike at the foundations of Islam from within” (1: 188).

The obvious question here is, of course, how such grave threats within the Muslim community are to be dealt with. As so often in his writings, Qaradawi identifies two extremes and then points to the correct, centrist, path that ought to be followed in this instance. One of these extremes is represented by those who would want to do nothing in the face of the ills afflicting their societies and who

²⁰ Ibn al-Amir al-San`ani, “Bahth fi qital al-kuffar,” in *Dhakha'ir `ulama al-Yaman*, ed. Muhammad `Abd al-Karim al-Jurafi (Beirut: Mu`assasat dar al-kitab al-hadith, 1990), 155–63. Reproduced in Qaradawi, *Fiqh al-jihad*, 2: 1202–15.

sometimes even justify their apathy by selectively invoking the Qur'an in support of their stance. Among the passages invoked in this regard is Q 5.105: "You who believe, you are responsible for your own souls; if anyone else goes astray it will not harm you so long as you follow the guidance . . ." To such justifications, Qaradawi retorts that one cannot be said to have "followed the guidance" if one is indifferent to oppression and injustice in society, or if one fails to heed the central Qur'anic imperative of "commanding right and forbidding wrong" (1: 193–9).

The other extreme is represented by people resorting to violence in pursuit of their religious goals, their ideas a "mixture" of those held by the "extremist Salafis" and other militant groups even as they resemble those of the early Islamic Kharijis (1: 200). Such groups, too, draw on the Qur'an as justification for their action, but they are no less mistaken in their understanding of God's word than are adherents of the other extreme. Nor do they realize, Qaradawi says, that resorting to force in "forbidding wrong" has its own rules and that one ought to be mindful – as such groups are not – of the consequences of their action (1: 201–3). Some of the militants, notably those belonging to the Egyptian Jama`a Islamiyya, did eventually come to recognize that wanton acts of violence had been counterproductive, that it was not possible to dislodge authoritarian regimes in this way, that it tended to pit segments of the Muslim community against one another rather than helping unite it against "the community's real foe," and that it enabled the regime to crack down on all Islamist orientations, including the "centrist" ones (2: 1166–81, esp. 1167).²¹ Such erstwhile militants are praised, not least because Qaradawi discerns an impact of his own writings on their evolving views (1: 16–17; 2: 1169).

The centrist trend that Qaradawi recommends to his audiences combats wrongdoing but without condoning the resort to violence, and it seeks to employ education, public preaching, journalism and other media, civil society associations, and peaceful political organizations to press for its demands (1: 204–6). This was written well before the dramatic events of 2011, when popular protests in Tunisia that began at the end of 2010 led to the ouster of the country's long-standing ruler, Zayn al-`Abidin Bin `Ali (r. 1988–2011), and massive demonstrations in Cairo's Tahrir Square and elsewhere in Egypt forced president Hosni Mubarak (r. 1981–2011) to resign after thirty years in office. Qaradawi and those receptive to his appeal would, however, see these popular and largely peaceful uprisings as true to his prescriptions. During the days leading up to Mubarak's departure, Qaradawi's was among the most prominent voices calling on the Egyptian president to leave and urging the protestors to hold their ground until he did so.²² And he would

²¹ On the Jama`a Islamiyya, see Gilles Kepel, *Jihad: The Trail of Political Islam* (Cambridge, MA: Harvard University Press, 2002), 276–98.

²² "Qaradawi li-thuwwar Misr: Ayyuha'l-athar usikum bi'l-thabat wa'l-hazar," http://www.qaradawi.net/site/topics/printArticle.asp?cu_no=7877&version=1 (dated February 7, 2011; accessed March 14, 2011). This is a report on a Friday sermon given by Qaradawi in Doha, Qatar, on February 4, 2011. Also see Qaradawi's statement on behalf of the International Union of Muslim

briefly return to Egypt a week after Mubarak's resignation to triumphantly lead more than a million people in Friday prayers in Tahrir Square.²³

Yet peaceful protest had its limits. And when, in marked contrast to the case of Tunisia and Egypt, the Libyan leader Mu`ammar al-Qaddafi (d. 2011) unleashed his troops, including the air force, on those calling for his removal from office after more than four decades in power, Qaradawi minced no words in issuing a fatwa that called for the killing of Qaddafi.²⁴ This was a significant departure from medieval juridical theory, which suggests tolerating even the most unjust of rulers as long as they at least pay lip service to Islam. It was also a departure from Qaradawi's own prescriptions in the *Jurisprudence of Jihad*, where he argues that even "infidel" regimes ought to be resisted through peaceful means (2: 1187–9).²⁵

JIHAD AND MORALITY IN A DIVIDED WORLD

There are places in the *Jurisprudence of Jihad* where Qaradawi seems to trade in his Islamic scholarly garb for the trappings of a military strategist or a defense analyst. For instance, on occasion, he underlines the need for Muslims to train themselves ceaselessly in the use of their weaponry, to employ spies to stay informed about enemy movements while watching out for enemy spies, and to take various measures to secure the home front. Relevant to this latter concern is his reminder that one should be on one's guard against enemy propaganda and, indeed, take the propaganda war to the enemy; provide for the families of those who are called to war so that their minds can be at ease on this score; and ensure that all segments of society contribute to the war effort.²⁶

Part of the explanation for Qaradawi's elucidation of such matters is surely his desire to produce a systematic work on jihad, one that is attentive to *all* conceivable facets of it. Qaradawi is also keen to show that the best of the contemporary `ulama understand the mundane realities of the world in sufficient depth and breadth to be able to expound them. This, of course, is part of a larger argument, in evidence in Qaradawi's prolix writings, for the authority of the `ulama (and, insofar as it

Scholars: "Bayan al-ittihad al-'alami li-'ulama al-muslimin bi-sha'n al-intifada al-mubaraka fi Misr," http://www.qaradawi.net/site/topics/printArticle.asp?cu_no=2&item_no=7872&version=1&temp (dated January 20, 2011; accessed March 14, 2011).

²³ Kirkpatrick, "After Lengthy Exile."

²⁴ "al-Qaradawi yufti bi-qatl al-Qaddafi 'al-mal'un,'" http://www.qaradawi.net/site/topics/printArticle.asp?cu_no=2&item_no=7915&version=1 (accessed February 22, 2011).

²⁵ Though severely critical of the violence unleashed by the Syrian regime on those seeking to unseat it in the wake of the Arab Spring, Qaradawi took a somewhat more restrained stance in this instance. He was the lead signatory, along with more than a hundred others, to a February 2012 statement that called upon Syrian troops to desert rather than kill fellow citizens and, indeed, to join the opposition. But in marked contrast with Qaradawi's position on Qaddafi, the statement avoided anything that could be construed as sanctioning violence against members of the Syrian regime. See <http://www.iumonline.net/ar/print.asp?contentID=3766> (accessed February 11, 2012).

²⁶ Qaradawi, *Fiqh al-jihad*, 1: 603–6, 608–14, 625–8, 636–41.

is addressed to them, for the `ulama to understand that their authority depends on their knowledge of the world around them). Equally at stake is his concern to demonstrate that the Islamic foundational texts, the Qur'an and the reported teachings of the Prophet Muhammad, can be shown to relate to all aspects of jihad, not just in early Islam but at all times.²⁷

However, there also is the concern to provide a thoroughgoing moral underpinning to the discourses on war and violence.²⁸ Qaradawi's elucidation of Islam's moral code is obviously meant to show Islamist militants – those “advocates of war on the entire world” (*du`at al-harb `ala'l-`alam*) – how far they have deviated from the straight and centrist path of their religion. But the concern is, in fact, much broader. In insisting that “war in Islam is a moral enterprise, much like politics, economics, science, and work,” Qaradawi's goal is also to contrast this Islamic moral universe with “the dominant view in Western civilization, where morality is altogether separated from war, just as it is divorced from science, from politics, and from economics” and where ends are generally taken to justify the means (1: 723; cf. 2: 1080).

To Qaradawi, the contrast is illustrated most sharply in how the United States has treated its foes:

America hit Hiroshima and Nagasaki with nuclear weapons, killing tens of thousands and maiming hundreds of thousands It was America that bombed people in Afghanistan – civilians who had nothing to do with the war. It then apologized for the error, compensating those killed with \$300 each as though it was compensating for sheep that had been slaughtered. At the same time, it sought compensation in the hundreds of millions of dollars for each of those killed on September 11, 2001 It continues to kill people in Iraq . . . and it plots with local and international thieves in the looting of museums and libraries and the plundering and destruction of Iraq's intellectual heritage, just as it was plundered earlier by [the thirteenth-century Mongol invader] Hülegü. The entire world, in the East and in the West, stood against the war on Iraq, calling on America not to engage in this war of aggression. The Security Council did not give it the right to resort to force. And the Muslim and Christian religious scholars (*ahbar al-din*) stood in opposition to it. Yet [the United States] did not care

²⁷ Another consideration is also worth noting. As Stuart Cohen has observed with reference to Israel, “[e]ver since 1948, [rabbinical] responsa – indeed, entire volumes of responsa – specifically dedicated to military issues have become an increasingly prominent item on the Orthodox Jewish bookshelf.” Stuart A. Cohen, “Tensions between Military Service and Jewish Orthodoxy in Israel: Implications Imagined and Real,” in Gabriel Sheffer and Oren Barak, eds., *Militarism and Israel Society* (Bloomington: Indiana University Press, 2010), 133. To the extent that Qaradawi is aware of this, and given his attention to the state of Israel in this book and elsewhere, one of his purposes may well have been to provide guidelines on military matters to his audiences just as the rabbis do to theirs.

²⁸ Here and elsewhere in this chapter, I have benefited from an unpublished paper by Lev Weitz, “The Boundaries of Tradition: Islamic Legal Opinions on Suicide Bombing.” Also see Muhammad Qasim Zaman, “The `Ulama of Contemporary Islam and their Conceptions of the Common Good,” in Armando Salvatore and Dale F. Eickelman, eds., *Public Islam and the Common Good* (Leiden: Brill, 2004), 145.

for any of this, and the right of force trampled over the force of right. This was an act of aggression prior to the war, during the war, and after the war! (1: 749–50).

The breathless stridency of Qaradawi's anti-American rhetoric remains unrelieved throughout this book. That he is comparing particular American actions, as he sees them, with Islamic *ideals* on matters relating to the conduct of war remains unacknowledged here, though he is scarcely unique among fellow Islamists and `ulama in this polemical strategy.²⁹ Qaradawi's invocation of a veritable global consensus against the Iraq war is also worth noting here. In this instance, of course, it serves the purpose of underlining the immorality of particular American policies and practices. But inasmuch as a separation between morality and other aspects of life is endemic to "Western civilization," any such consensus is, at best, transitory. What is stable, Qaradawi says, is the Western animosity toward Islam; and U.S. policies toward the Muslim world, especially in the aftermath of 9/11, are only its most recent expression.

Much like Rashid Rida in an earlier generation, Qaradawi spends a good deal of time alerting his Muslim readership to the sinister threat of Christian missionaries. Christians and Muslims can be natural allies in the struggle against immorality and irreligion and for social justice but, he laments, there are severe impediments on the path to any meaningful cooperation (2: 1113–15). Among these, he singles out the "absolute support for Israel" on the part of Western Christians as well as their proselytism among Muslims. Qaradawi says rather contradictory things about the seriousness of the Christian missionary threat to Islam, however. He thinks that missionary efforts in the last quarter century or so have chosen the wrong time to proselytize because the Muslim world has been undergoing an Islamic revival, which necessarily diminishes the prospects for any significant Christian inroads. Yet he also warns that Christian missionary assertions about the failure of their efforts among Muslims should be seen as a ploy to raise money from their patrons and to create a sense of complacency among Muslims (2: 1119–25). But it is not just the Christian missionaries that threaten Islam and Muslims. Hostility toward Islam, the Arabs, and "the East" permeates Western societies: the "Crusader spirit" is not limited to any particular denomination, and it characterizes even the secularists and those who do not practice their religion (2: 1127).

There appears to be little uncertainty in Qaradawi's mind about the implications of this remarkable analysis. Just as Rashid Rida had once informed his audience

²⁹ In one of his earliest works, *al-Jihad fi'l-Islam*, the South Asian Islamist ideologue Mawdudi does, in fact, acknowledge this objection and gives an answer. Islamic law and actual Muslim conduct are "two entirely separate things," he says, speaking of laws relating to war. In Islam, the law, being of divine provenance, has nothing to do with what Muslims think about it. Consequently, Muslim practice is irrelevant to any evaluation of the merits of the law. In Western societies, on the other hand, the law not only reflects the desires and practices of the people but *follows* them, which means that it is fair to look at actual Western practices in evaluating Western laws and even to compare such practices with Muslim legal norms. Sayyid Abu'l-'A'la Mawdudi, *al-Jihad fi'l-Islam* (Delhi: Markazi maktaba-i Islami, 1988; first published in 1927), 599–600.

at the Muhammadan Anglo-Oriental College in Aligarh that Englishmen were far more committed to their “traditional” ways than their Muslim acolytes recognized, Qaradawi wants his readers to understand that, irrespective of their belief and practice, Westerners are as one in their animosity toward Islam. One implication is that a commitment to secular norms would not do much for Muslims because it is not just the right but also the left in Western societies that is anti-Islamic. The larger implication is, of course, that Muslims, too, should forge a united front against their shared enemy. This is a persistent theme in Qaradawi’s discourses, as has been seen in previous chapters, and it continues to be prominent in his *Jurisprudence of Jihad*.

The enemies of Muslims have made strenuous efforts to patch up their internal differences in view of their “greater good” (*maslahatuhum al-kubra*), Qaradawi says, pointing to the European Union. He also refers to the Vatican’s 1985 pronouncement that Jews should not be deemed responsible for the blood of Christ (2: 989).³⁰ Muslims, for their part, have continued to remain divided within their ranks. It is not just Muslim disunity that he laments, however. Those plotting against the Muslim world also exploit differences between religious communities inhabiting Muslim societies, as in the case of Christians and Muslims in Egypt (2: 987), which would seem to suggest that the real conflict is not between Christianity or Judaism and Islam, but rather between the Muslim world (including its minorities) and the West. Qaradawi tries to say reassuring things about the rights of non-Muslims in Islam, though it is far from clear that some of these reassurances would go down well with non-Muslim minorities listening to him. Christian inhabitants of Muslim lands are told, for instance, that the shari`a is better suited to their interests than “laws imported from Europe” since the shari`a is an indigenous product that should therefore be acceptable to all local inhabitants irrespective of creed (2: 1138).

But if Muslims and non-Muslims should stand together against the West, Muslims themselves are in the greatest need of doing so. Their actual or alleged differences are a continual cause of vulnerability, he says, with the enemy exploiting every chink in the armor – sometimes in the form of ethnicity (e.g., Arab vs. Kurd in Iraq or Arab vs. Berber in North Africa), at others in that of sectarianism (Sunni vs. Shi`i in Iraq and Lebanon or Sunni vs. Khariji-Ibadi in Oman). “And when they cannot find anything else, they speak of [the differences between] nationalist and Islamist, the right and the left, revolutionary and liberal, and so forth” (2: 987). The need for intra-Muslim unity has never been greater:

In the aftermath of the events of September 11, 2001, in particular, the Muslim community – from the East to the West – faces a difficult test, a momentous situation.

³⁰ Qaradawi apparently refers here to the Vatican’s “Notes on the correct way to present the Jews and Judaism in preaching and catechesis in the Roman Catholic Church” (1985). For this document and the relevant passage (section IV.2), see <http://www.vatican.va> (accessed March 3, 2011).

This requires that the community in general, and especially its scholars and preachers and those spearheading its reawakening, forget their particular differences and their marginal conflicts in order to stand together as a united and compact front in the battle that confronts Islam and its adherents . . . (2: 989).



MINIMIZING INTRA-MUSLIM DIFFERENCE SEEMS TO REQUIRE, FROM Qaradawi's perspective, a heightened sense of what separates Muslims from all others. It is not surprising, then, that he defends the premodern juridical view of the world as divided between the Abode of Islam (*dar al-Islam*) and the Abode of War (*dar al-harb*) or, following some modern Muslim observers, as split among the Abode of Islam, the Abode of War, and the Abode of Contract (*dar al-'ahd*, signifying non-Muslim lands whose Muslim inhabitants are free to follow their religious norms in accordance with an explicit or implicit contract with those governing such lands).³¹ Some contemporary Muslim jurists have argued that not only do such classifications not make sense in today's globalized world, but they do not even have any justification in the Islamic foundational texts; what is worse, they only serve to confirm stereotypes about Muslims as warmongers (2: 881).³² Qaradawi rejects this view on all counts. He tries to show that the Qur'an and the normative example of the Prophet Muhammad do lend credence to such classifications. And he reproaches his fellow scholars for asserting that the jurists had made them up: "accusing the [medieval] jurists of such a thing would be understandable when coming from the secularists and the Orientalists; but the [contemporary Islamic] scholars of the law [*ahl al-fiqh*] should not say such things" (2: 882).

At least some of those wishing to dispense with these classificatory schemes do so on grounds that they are based on religious difference, which, they say, is not a good way of carving up today's globalized world. Yet this is precisely why Qaradawi defends such classifications – that is, as a reminder that Muslim life continues to be anchored in Islam (2: 900). But what exactly does the Abode of Islam or, more idiomatically, the World of Islam refer to? His answer is that it includes all lands that are predominantly Muslim even if they are not subject to Islamic law. The concern here is, of course, to reject, against some radical Islamist claims, the view that non-implementation of Islamic law disqualifies a society or state from being reckoned as part of the Abode of Islam. The obviously subversive implications of such claims are not all that perturb Qaradawi. He is equally worried that, should certain territories come to be seen as not part of the Islamic world on such grounds, Muslims elsewhere would stop feeling responsible for them, with a

³¹ Qaradawi, *Fiqh al-jihad*, 2: 879–910. He follows the Egyptian religious scholar Muhammad Abu Zahra in the tripartite classification: *ibid.*, 2: 880.

³² Qaradawi attributes the view that there is no warrant in the foundational texts for such classifications to the contemporary Syrian religious scholar Wahba al-Zuhayli (Qaradawi, *Fiqh al-jihad*, 2: 881). He refers here to al-Zuhayli's *Athar al-harb fi'l-fiqh al-Islami* (Beirut: Dar al-fikr, n.d. [ca. 1966]), 193–4.

concomitant shrinking of the frontiers of Islam (2: 900–1). As for the rest of the world, Qaradawi's view is that it should be seen, with one exception, as the Abode of Contract, where Muslims can live and with whose inhabitants they can freely interact. The exception is Israel, which Qaradawi characterizes as the sole Abode of War in the contemporary world (2: 901–8).

Qaradawi is flexible so far as the danger of offending people with the sort of classificatory scheme he defends here is concerned. He does insist on retaining the "abode of Islam," because it underscores Muslim religious identity, but other terms are negotiable. He invokes the case of the Banu Taghlib, an Arab Christian tribe in early Islam that had requested that the poll tax they were required to pay should not be designated *jizya*, which had demeaning connotations, but rather be called *zakat*, which was the tax Muslims paid; the caliph `Umar (r. 634–44) had readily agreed to this request. What matters, Qaradawi concludes, is the substance, rather than names and titles. By the same token, he says, those referred to as infidels or unbelievers in the juridical literature are today better called non-Muslims, much like "people in our age refer to those different from or opposed to themselves as the Other" (2: 908–10; quotation at 910). The question of whether the Other includes not simply non-Muslims but also "bad" Muslims is an inconvenient one, and it is passed over in silence here.

ON TERRORISM AND SUICIDE BOMBING

I turn now to a relatively small but crucially important part of Qaradawi's *Jurisprudence of Jihad*: his discussion of suicide bombing. Its importance lies, of course, in the light it can shed on how this increasingly common form of violence is debated in some Islamist circles. It also illustrates some of the tensions between Qaradawi's effort to rein in militant Islamists and his affinity – already on display in the sharply divided world he delineates – with the very same Islamists. For our purposes, its primary interest lies, however, in illuminating the scope and limits of his engagement with the Islamic juridical and exegetical tradition and the sort of authority he seems to envision for himself as its interpreter.

The severity of Qaradawi's denunciation of Israel is matched by nothing else in his *Jurisprudence of Jihad* and other writings, not even by his otherwise searing criticism of U.S. policies and actions in the aftermath of 9/11, and it is with reference to Israel that he evaluates the legitimacy of suicide bombing. As has been seen, Israel is, to him, the single representative of the Abode of War in the contemporary world, which means not only that the Palestinians must continually struggle against it but also that Muslims everywhere else are obligated to participate in this struggle. It is also his prime contemporary example of "state terrorism" as regards the Palestinians, just as he takes the United States as the preeminent example of "international terrorism" (2: 1078–82). Resorting to all possible means in the struggle against those occupying one's homeland is legitimate, Qaradawi says, and it is

from this general principle that he derives his justification for suicide bombings or, as he refers to them, “martyrdom operations” (2: 1082–3).³³

Qaradawi argues, as he has elsewhere, that Israel is a “militarized society” with every Israeli man and woman being an actual or potential member of the armed forces.³⁴ As such, conventional distinctions between combatant and noncombatant are not applicable in this case. Further, in modern warfare, the entire society necessarily stands behind its soldiers, which again means that no meaningful distinction can be made between those doing the actual fighting and “civil society institutions . . . unless they are explicitly opposed to such warfare” (2: 1087–8).³⁵ The reason why representatives of the anti-war position are able to take the position they do is that they usually live outside Israel, he says (2: 1088), which serves only to heighten the moral culpability of everyone living within its borders. Basing himself on the view that, in case of necessity, it is permissible to kill Muslims whom the enemy is using as human shields, he argues, a fortiori, for the permissibility of killing non-Muslim noncombatants when the liberation of Muslim lands is at stake; but he continues to also deny that, in the Israeli case, they are really noncombatants.

Implicit in such arguments is his response to fellow Muslims who object to the practice of suicide bombing on moral or even on tactical grounds (2: 1088–91). Contrary to critics, Qaradawi insists that this practice bears no relation to suicide, which is explicitly forbidden by Islamic law.³⁶ For the person committing suicide is essentially fleeing from life in the face of a personal failure, whereas the one engaging in a martyrdom operation is sacrificing himself “for a larger cause,” viz., to earn the pleasure of God. Qaradawi is equally unimpressed by the objection that such actions lead to punitive Israeli retaliation, arguing that, inasmuch as repression and aggression are inherent to Israel, Palestinians would continue to suffer at Israeli hands even if they did not engage in suicide bombings. Nor should the effects of this tactic be ignored, he says, for it clearly does serve to

³³ Interestingly, although he vigorously disputes the designation “suicide bombings” for what he calls “martyrdom operations,” he is willing to refer to such actions as “legitimate terrorism” (*al-irhab al-mashruʿ*), as distinguished from “illegitimate terror.” The latter encompasses actions ranging from the activities of drug cartels and mafias to “Zionist terrorism.” It also includes such things as hijackings and kidnappings by Islamist militants and the killing of tourists, as in Luxor, Egypt (in 1997), and in Bali, Indonesia (in 2002). Qaradawi, *Fiqh al-jihad*, 2: 1083–5.

³⁴ For this and his other arguments, see *ibid.*, 2: 1085–8.

³⁵ This feature of modern warfare is hardly peculiar to Israel, however, as Qaradawi himself notes elsewhere in his book, which suggests that there should be no objection to *Muslim* noncombatants being targeted by hostile forces either. Qaradawi does not, however, pause to examine such implications here.

³⁶ *Fiqh al-jihad*, 2: 1089. Qaradawi found himself in an awkward position when he praised Muhammad Bu `Azizi, the Tunisian fruit vendor whose self-immolation in December 2010 had triggered an extraordinary chain of antigovernment protests in many countries of the Arab world. He subsequently clarified that he did not condone suicide but, in any case, that the moral responsibility for it lay on the despotic rulers whose conduct had brought Bu `Azizi to such a pass. See `Allam, “al-Qaradawi: Nasʿal Allah an yatajawaz `an Bu `Azizi;” Qaradawi, “Tashih lazim.”

frighten the enemy and to inflict psychological, political, and economic damage on Israeli society. But he grants that if the Palestinian elite – “the people who loosen and bind,” as he calls them – do come to feel that the costs of engaging in suicide bombings are too great, they would be within their rights to come up with alternatives by resorting to a “new *ijtihad*” (2: 1091).

Almost as an afterthought, Qaradawi appends two qualifications to his more or less unambiguous arguments in favor of suicide bombing. The first is that suicide bombings are only permissible in the case of Palestine, because of its unique circumstances and because of a lack of alternatives. “We do not allow the resort to such operations anywhere other than in Palestine, given the absence of an unavoidable and legitimating necessity,” he writes. “To analogize the case of other lands to that of Palestine, as is done by those resorting to such operations against fellow Muslims in Algeria, Egypt, Yemen, Saudi Arabia, Iraq, Pakistan and elsewhere, is a bad analogy . . . and [such operations] are forbidden by the *shari`a*” (2: 1092). The third edition of the book adds to this list “those who adopted this [tactic] against America in its homeland, as in case of the events of September 11, 2001. This, too, is not covered by the [Palestinian] exception.”³⁷ Qaradawi’s second caveat is that even the Palestinians had acquired missiles that could strike Israel (he was clearly writing before the Israeli military operations in Gaza in early 2009, precipitated precisely by these missile strikes), which means that the dependence on suicide bombing may no longer be necessary (2: 1092).

The stringency as well as the simplicity of Qaradawi’s analysis merit a brief comment before proceeding further. Other than noting that “everyone beyond the age of childhood” is an actual or potential soldier in Israeli society (2: 1086), which is an acknowledgment that not everyone bears arms, he takes practically no interest in the rights of those who do not. This is remarkable because Islamic law does, of course, take keen interest in the rights of the noncombatants.³⁸ And, as has been seen, Qaradawi himself extrapolates his argument for peaceful coexistence with non-Muslims from the medieval juridical discourse on noncombatant immunity. Qaradawi’s uncompromising position is equally striking for its failure to see any debate, contestation, or division within Israeli society on issues relating to national identity, citizenship, the Israeli settlements, and so forth.³⁹ There is no mention, for instance, of those who are exempt from military service, for example *yeshiva* students,⁴⁰ and the only people who are fleetingly mentioned as credible opponents of Israeli military policies are said to live outside the state. Yet there is little to suggest that this simplistic analysis has done any damage to Qaradawi’s credibility

³⁷ Qaradawi, *Fiqh al-jihad*, 3rd ed., 2: 1199.

³⁸ For a brief survey and some of the relevant literature, see Hallaq, *Shari`a*, 328–31.

³⁹ See, for instance, Gershon Shafir and Yoav Peled, *Being Israeli: The Dynamics of Multiple Citizenship* (Cambridge: Cambridge University Press, 2002).

⁴⁰ On this and other grounds for exemption, see *ibid.*, 143–5.

or scholarly reputation. What it does instead is to underscore the clarity of his anti-Israeli stance. To the extent that it represents a strategic move, the stringency of this position also enables him to take more moderate positions on a number of other controversial issues.⁴¹ Incidentally, his failure to see much dissent and nuance within Israeli society, or to have the Palestinian response to Israeli policies calibrated accordingly, also fits well with his argument elsewhere that the “Western” world is ultimately united in opposition to Islam; the case of Israel is just the starkest expression of that unity.



AN ESPECIALLY NOTEWORTHY FEATURE OF QARADAWI’S DISCUSSION OF suicide bombing in his *Jurisprudence of Jihad* is the absence of any sustained engagement with what might seem to be the relevant religious literature. He does engage with this literature elsewhere, in a juridical opinion on Palestinian suicide bombings now included in his *Contemporary Fatwas*.⁴² Part of this fatwa covers the same ground as the aforementioned discussion in the *Jurisprudence of Jihad*, and I will leave that portion aside here. But most of the fatwa is concerned with the interpretation of a Qur’anic verse that enjoins: “Spend in God’s cause: do not contribute to your destruction with your own hands, but do good, for God loves those who do good” (Q 2.195). It is this part of the fatwa that I now want to examine.⁴³

Although some have understood this as an injunction against suicide, Qaradawi dismisses those who invoke it against suicide bombings as “simpletons” (*al-busata*).⁴⁴ There is much disagreement among medieval and modern exegetes about what contributing to one’s destruction with one’s own hands means. Some think that it refers to not spending money in the path of God; others, that it warns against being a spendthrift; yet others, that it admonishes sinners not to despair of God’s forgiveness as the justification for persisting in sin, and so forth. The aforementioned Hanafi jurist Jassas – whom Qaradawi quotes at length in this

⁴¹ On a related note, see Lynch, *Voices of the New Arab Public*, 234–5.

⁴² Qaradawi, *Fatawa mu`asira*, 3: 518–26. The fatwa is also included in a multi-author booklet on suicide bombing: *Shubuhat hawl al-`amaliyyat al-istishhadiyya* (Miknas: Alwan maghribiyya, 2002). Unless otherwise noted, my references are to *Fatawa mu`asira*. The fatwa is undated, but the question to which it is a response refers to “recent bombings in Jerusalem, Tel Aviv and Ashkelon” (*Fatawa mu`asira*, 3: 518). If this is a reference, inter alia, to suicide bombings in Jerusalem and Ashkelon on February 25, 1996, then the fatwa probably dates to the late 1990s. On this incident, see Serge Schmemmann, “Two Suicide Bombings in Israel Kill 25 and Hurt 77, Highest Such Toll,” *The New York Times*, February 26, 1996: A1.

⁴³ Qaradawi does briefly refer to this verse in relation to the question of suicide bombing, but this does not occur in the section principally concerned with the latter question. See *Fiqh al-jihad*, 1: 512–13 and n. 1 on p. 513.

⁴⁴ *Fatawa mu`asira*, 3: 519.

fatwa – provides a sampling of these opinions while also discussing the question of whether this verse has anything to do with singlehandedly charging against the enemy when the outcome of doing so is assured death.⁴⁵ A story commonly told in this context depicts a scene from an abortive early Muslim campaign to take the Byzantine capital, Constantinople. A man from the Muslim side had gone forth against the enemy to meet his death, whereupon others thought that he had done what the Qur'an forbade, viz. to contribute to one's destruction with one's own hands. Abu Ayyub al-Ansari (d. 672), a well-known companion of the by-then deceased Prophet, was part of the campaign, and he proceeded to inform his audience that the verse in question had nothing to do with this mode of courting death; rather, it had been revealed by God as an admonition against those who had begun, already during the Prophet's lifetime, to attend to their financial affairs while neglecting jihad. Such inattention to jihad was tantamount, on this view, to destruction with one's own hands.⁴⁶

Jassas also quotes several views according to which plunging into enemy lines is permissible – and therefore not covered by the prohibition in Q 2.195 – as long as the person doing so expects to inflict some damage on the enemy. He cites Muhammad b. al-Hasan al-Shaybani (d. 805), one of the founding fathers of the Hanafi school of law, in corroboration of this view. This passage from Shaybani has often been invoked in contemporary discourses on suicide bombing. The following is Jassas's rendition of it:

Muhammad b. al-Hasan [al-Shaybani] states in [his] *al-Siyar al-kabir* that there is no objection to a single man attacking a thousand men if he expects (*yatma`*) to escape [death] or to inflict damage [on the enemy]. If he doesn't expect either, then I [i.e., Shaybani] dislike this action for, in that case, he has exposed himself to destruction without any benefit (*manfa`a*) to Muslims. A man should only act thus if he is hopeful of escaping [death] or benefiting the Muslims. If, however, he expects neither escape nor the infliction of damage, but is able to embolden fellow Muslims with his action, so that they do as he has done – fighting the enemy and inflicting damage on them – then, too, God willing, there is no harm in his action. For if he expects to inflict damage on the enemy but does not expect to escape [alive], I consider it unobjectionable that he attacks them. It is likewise unobjectionable if he believes that someone else will be able to inflict damage on them by *his* attacking them, and I hope that he would be rewarded [by God] for it. His action is reprehensible only if there is no benefit to it from any angle. And if he doesn't expect to escape or to inflict harm, but is able to terrify (*yurhib*) the enemy,⁴⁷ his action is unobjectionable in that case, too. For doing

⁴⁵ Jassas, *Ahkam*, 1: 262–3; Qaradawi, *Fatawa mu`asira*, 3: 519–22.

⁴⁶ Jassas, *Ahkam*, 1: 262; Qaradawi, *Fatawa mu`asira*, 3: 520.

⁴⁷ The term *irhab*, often used in modern Arabic in the sense of terrorism, should not necessarily be assumed to have the same connotations in its premodern usage. In Qur'an 8.60, for instance, this term is better rendered as "to frighten off": "Prepare whatever forces you can muster, including

so is the best kind of damage [inflicted on the enemy], and there is benefit in it for Muslims.⁴⁸

Qaradawi clearly approves of this view. Perhaps surprisingly, however, he does not ask about, or point to, the grounds on which this medieval juridical allowance for courting certain death in battle can be extended to situations in which it is not just the combatant and his intended target but also bystanders who get killed. A soldier brandishing his sword or spear and rushing headlong into enemy lines is very different in its effects, after all, from someone blowing him- or herself up in a crowded market. The question here is not whether those bystanders too share some moral culpability with the actual target of such action, for Qaradawi's answer on this is clear. Rather, the question is whether it is a legitimate hermeneutical move to extend the position of a Shaybani and a Jassas to modern suicide bombings. We will return to this question of authority later in this chapter, though it remains unarticulated in the fatwa itself.

In formulating his views, Qaradawi draws on a number of other sources, including the work of Qurtubi (d. 1273),⁴⁹ Fakhr al-din al-Razi (d. 1209),⁵⁰ Ibn Taymiyya (d. 1328),⁵¹ Ibn Kathir (d. 1373),⁵² Shawkani (d. 1834),⁵³ and Rashid Rida (d. 1935), all of which he takes to support his position that sacrificing one's life in the face of an overwhelmingly superior enemy is *not* to contribute to one's destruction with one's own hands. There is considerably greater variety of opinion in the medieval and modern discussions of Q 2.195 than one is given to understand from his account, however.

warhorses, to frighten off God's enemies and yours, and warn others unknown to you but known to God . . ." For Qaradawi's discussion of this term, see *Fiqh al-jihad*, 2: 1071ff.

⁴⁸ Jassas, *Ahkam*, 1: 263. Shaybani's *Siyar al-kabir* is no longer extant, except in the form of a commentary on it by the influential Central Asian Hanafi jurist Sarakhsi (d. 1090). Despite efforts by modern editors, however, it does not seem possible to adequately reconstruct Shaybani's full text from Sarakhsi's commentary. Cf. Majid Khadduri, *The Islamic Law of Nations: Shaybani's Siyar* (Baltimore: The Johns Hopkins University Press, 1966), 43–4. For Jassas' quotation from Shaybani as it appears, partially, in Sarakhsi's commentary, see Muhammad b. Ahmad al-Sarakhsi, *Sharh kitab al-siyar al-kabir lil-imam Muhammad b. al-Hasan al-Shaybani*, ed. Muhammad Hasan Isma'il, 5 vols. (Beirut: Dar al-kutub al-'ilmiyya, 1997), 4: 250.

⁴⁹ Qurtubi, *al-Jami' li-ahkam al-Qur'an*, 2: 361–5; Qaradawi, *Fatawa mu'asira*, 3: 522–3. A key element Qurtubi adds to Jassas' discussion of the legitimacy of these acts is the "purity of intention" (Qurtubi, *al-Jami'*, 2: 363). That is, such suicidal acts are to be deemed justified if one genuinely seeks to please God in undertaking them. Another view, which Qurtubi also quotes in this context, held that pure intention needed to be accompanied by strength for any such act to be justified.

⁵⁰ al-Razi, *al-Tafsir al-kabir*, 5: 148–51; Qaradawi, *Fatawa mu'asira*, 3: 523–4.

⁵¹ Ibn Taymiyya, *Majmu' fatawa Shaykh al-Islam Ahmad ibn Taymiyya*, ed. 'Abd al-Rahman b. Muhammad al-'Asimi, 37 vols. (Beirut: Mu'assasat al-risala, 1997), 28: 540; Qaradawi, *Fatawa mu'asira*, 3: 525.

⁵² Ibn Kathir, *Tafsir al-Qur'an al-'azim*, ed. Mustafa al-Sayyid Muhammad et al., 15 vols. (Cairo: Mu'assasat Qurtuba, 2000), 2: 220–3; Qaradawi, *Fatawa mu'asira*, 3: 524–5.

⁵³ Muhammad b. 'Ali al-Shawkani, *Fath al-qadir*, ed. 'Abd al-Rahman 'Umayra, 6 vols. (Cairo: Dar al-wafa, 1994), 1: 262–3; Qaradawi, *Fatawa mu'asira*, 3: 525.

For instance, Qaradawi does not tell his readers that Ibn Kathir's discussion of Q 2.195 contains a story of a decidedly different import from that of Abu Ayyub al-Ansari (which Ibn Kathir also mentions) or the views of Shaybani. The story relates to the siege not of Constantinople but rather of Damascus, and the protagonist is `Amr b. al-`As (d. ca. 664), another companion of the Prophet famous as the general who led Muslims to the conquest of Egypt. At the siege of Damascus, a tribesman had decided to go it alone in attacking the enemy. His fellow soldiers disapproved of such behavior and reported it to `Amr. The tribesman was summoned (which obviously means that he had survived his impetuous action), rebuked by `Amr, and reminded of God's command "not [to] contribute to your destruction with your own hands."⁵⁴

Nor is it always clear that those commenting on this verse are saying quite what Qaradawi takes them to be saying. For instance, he quotes Rida's statement that "among the things the verse [Q 2.195] prohibits is thrusting oneself into battle without any knowledge of military matters that the enemy, for its part, is familiar with. Also included in this prohibition is taking illegitimate risks (*mukhatara ghayr mashru`a*) of a kind that are dictated by one's whims rather than for the sake of supporting the truth."⁵⁵ Qaradawi comments: "What this means is that the *legitimate and rule-bound form of risk taking (al-mukhatara al-mashru`a al-mahsuba)* – whereby to terrorize the enemy of God and our enemy, and to support the truth rather than follow mere whim – is not included in [the prohibition of] contributing to one's destruction with one's own hands."⁵⁶ Yet, despite Qaradawi's insinuation, Rida's point is that one should never act impetuously, not that it becomes permissible when supposedly guided by rules. Nor does Rida condone anywhere the sort of suicidal action that commentators have sometimes discussed with reference to this verse. Writing in the early twentieth century, Rida even manages to turn on its head the moral of the story from Abu Ayyub al-Ansari, the companion of the Prophet. Abu Ayyub, it will be recalled, had cautioned his fellow soldiers camped outside the walls of Constantinople that Muslims would be destroyed if they turned away from jihad to attend to their material interests. Rida comments, "The growth and development of material wealth is, in this age of ours, the very basis of strength. The power of nations is proportionate to their wealth; and a nation that falls short in increasing its wealth is the one that contributes to its destruction with its own hands." He adds, however, "[The nation] that is remiss in spending in the path of God, in order to prepare itself to fight whoever commits an aggression against it, would be courting destruction; for wealth is of no avail with injustice and there is no justice with absolute and authoritarian rule."⁵⁷

⁵⁴ Ibn Kathir, *Tafsir*, 2: 222. Ibn Kathir's source here is Ibn Abi Hatim's commentary on Q 2.195. See Ibn Abi Hatim, *Tafsir*, 1: 332.

⁵⁵ Rashid Rida, *Tafsir al-manar*, 2: 213; for Rida's full discussion of this verse, see *ibid.*, 2: 213–16.

⁵⁶ *Fatawa mu`asira*, 3: 526. My emphasis.

⁵⁷ Rida, *Tafsir al-manar*, 2: 214.

Rida's own understanding of Q 2.195 derives, via his mentor Muhammad `Abduh, from the distinguished medieval scholar Jalal al-din al-Suyuti (d. 1505). According to Suyuti, the "destruction" of which this verse speaks is to be understood as "desisting from spending on jihad and abandoning it, for to do so would strengthen the enemy against you."⁵⁸ Qaradawi refers to this interpretation of the verse elsewhere in his *Jurisprudence of Jihad*, but only very briefly (1: 578). This is surprising not only because this interpretation is commonly encountered in Qur'an commentaries,⁵⁹ including those that Qaradawi refers to in the section of his book devoted to suicide bombing, but also because it would seem to fit some of his other concerns quite well. As would be recalled, Qaradawi argues that a "jihad of choice" is *not* an obligation that some people must regularly fulfill on behalf of the Muslim community as a whole (*fard `ala'l-kifaya*). Whereas the medieval jurists have, indeed, tended to view it as precisely this kind of an obligation, Qaradawi insists that there is no binding consensus on this question (1: 79). But even if seen as obligatory, he says, it does not need to take the form of actual warfare. He commends in this regard the views of certain medieval Shafi'i jurists who saw military *preparedness* on Muslim frontiers – rather than active warfare – as sufficing to fulfill this obligation (1: 90–2, 390–1).⁶⁰ Elsewhere in the book, Qaradawi speaks at some length on the need for people of means to support the defense of Muslim lands through financial contributions (1: 573–9). Yet, for all the concordance between this discussion and the understanding of Q 2.195 that Suyuti, `Abduh, Rida, and many others favor, Qaradawi does not make much use of it in either his fatwa on suicide bombing or in his discussion of this subject in the *Jurisprudence of Jihad*.

Rather more curious is the absence of any discussion of Q 2.195 in the section devoted to suicide bombing in the *Jurisprudence of Jihad*. That Qaradawi has discussed that Qur'anic verse elsewhere, in his fatwa on this subject, is not a sufficient explanation for this absence. For the *Jurisprudence of Jihad* aspires to be a comprehensive work on all matters of jihad and, on several occasions, Qaradawi does reprise things he has published elsewhere. The reason for omitting any substantial discussion of Q 2.195 in relation to suicide bombing seems rather to be the tension between Qaradawi's simultaneous concerns to legitimize *and* restrict recourse to this practice. As has been seen, he legitimizes it, with some caveats, for the Palestinians vis-à-vis Israel but firmly rejects its permissibility for everyone else. Yet apart from invoking the extraordinary situation of the Palestinians and the sanctity of the holy land, he does not provide any clear rationale for this restriction. The medieval exegetes who discussed the legitimacy of courting death with reference to Q 2.195

⁵⁸ Jalal al-din Muhammad b. Ahmad al-Mahalli and Jalal al-din al-Suyuti, *Tafsir al-Qur'an al-karim* (Cairo: Dar al-qalam, 1966), 34 (s.v. Q 2.195). Quoted, slightly inaccurately, in Rida, *Tafsir al-manar*, 2: 213.

⁵⁹ `Ubayd Allah Sindhi, too, adopts this interpretation without referring to any other view: *Ilham al-Rahman*, 248–9.

⁶⁰ See, for instance, Shams al-din al-Ramli, *Nihayat al-muhtaj ila sharh al-minhaj*, 8 vols. (Cairo: Mustafa al-Babi al-Halabi, 1967), 8: 46; Qaradawi, *Fiqh al-Jihad*, 1: 91.

had not restricted it to any particular time or place. On the other hand, they had also not entertained the possibility of ordinary bystanders being killed as a result of such action. Qaradawi's choices seem to be either to acknowledge that what some medieval jurists and exegetes had said about the permissibility of meeting certain death in battle does not extend to the legitimacy of suicide bombing *or* to try to restrict such operations to a particular locale.

Although it was about Palestinian suicide bombings, Qaradawi had said nothing in his fatwa to restrict it exclusively to the Palestinians. Rather, he had contented himself on that occasion with castigating those who thought that to engage in this practice was to commit the reprehensible act of suicide and of destroying oneself with one's own hands. He had ended with the following general advice:

What we ask for here is that these martyrdom operations should take place after study and the careful weighing of their pros and cons. All this should happen by way of collective deliberation on the part of trustworthy Muslims. If they find benefit (*khayr*) in proceeding [with this practice], they should do so while putting their trust in God. "If anyone puts his trust in God, God is mighty and wise" [Q 8.49].⁶¹

Such advice can presumably be taken by many more people than those specifically targeting Israel, however, just as the permissibility of the mode of death debated with reference to Q 2.195 could conceivably be extended to a variety of other locales. Qaradawi's omission of this discussion in the context of his endorsement of Palestinian suicide bombings in the *Jurisprudence of Jihad* is best seen as a half-hearted effort to avoid that possibility. It is the second of the aforementioned two choices that he has implicitly come to make in this book.

DEOBANDI DISCOURSES: BEFORE 9/11

The Deobandis have yet to write anything on the scale of Qaradawi's *Jurisprudence of Jihad*, but, as might be expected in view of the Taliban's broadly Deobandi orientation, they have faced considerable pressure in the aftermath of September 11, 2001, to formulate a clear position on matters relating to terrorism. The positions that have been forthcoming are neither clear nor unanimous. Yet an intense debate continues, revealing much both about fissures within Deobandi ranks and about the tensions and contradictions of internal criticism. Questions relating to violence are, however, not new in Deobandi circles. They have, in fact, dogged their leadership from the beginning. It is not just the premodern juridical tradition but also the practice of the Deobandi forbears that both guides and constrains contemporary Deobandis, and a review of some illustrations from this history is in order before turning to Deobandi discourses in the years following the events of 9/11.

⁶¹ Qaradawi, *Fatawa mu`asira*, 3: 526.

Although the degree to which the founding fathers of the Deoband madrasa were involved in the Mutiny of 1857 remains unclear, there was enough suspicion for Rashid Ahmad Gangohi (d. 1905) to have been imprisoned for several months in its aftermath and for his mentor, Imdad Allah (d. 1899), to leave India and settle in Mecca.⁶² In the early twentieth century, `Ubayd Allah Sindhi, for his part, had come to represent the radical fringe of the Deobandis, creating great nervousness at the madrasa and leading its administrators to go out of their way to reassure the British of their loyalty.⁶³ In 1919, while in Kabul as a member of the Provisional Indian Government, Sindhi sent a public letter to his Indian compatriots during the Third Anglo-Afghan War, urging them not to resist the planned Afghan invasion of India. It went on: “kill the English in every possible way, don’t help them with men and money, and continue to destroy rails and telegraph wires.”⁶⁴ During his years in Afghanistan, he had also founded a militia named *Junud Allah* or *al-Junud al-rabbaniyya* (the Armies of God). This included English-educated Indian Muslims who, like Sindhi, had traveled to Afghanistan to pursue anti-colonial activities from this relative safe haven as well as those associated with anti-British militancy in the tribal areas of the north-western Frontier. (The latter were the so-called Mujahidin, who saw themselves as the remnants of the abortive effort of Sayyid Ahmad of Rai Bareilly to establish a Muslim principality on the Frontier in the early nineteenth century.)⁶⁵ No doubt with the assistance of his English-educated disciples, Sindhi had glossed this militia’s name as the Muslim Salvation Army.⁶⁶ In later years, he claimed that the purpose behind its creation was to reduce the “rivalries” between people of different intellectual formations and that “the extent to which there was militancy in it was no more than exists in the Salvation Army.”⁶⁷ Given the activities of the Frontier Mujahidin and Sindhi’s own while in Kabul,⁶⁸ it is difficult to take this statement seriously. And it is hard to imagine that anyone

⁶² For some skepticism about the involvement of these figures in the events of the Mutiny, see Metcalf, *Islamic Revival*, 82–3.

⁶³ See “Address Presented to Sir James Meston by the Maulvis of Deoband,” September 27, 1915, in Shan Muhammad, ed., *The Indian Muslims: A Documentary Record, 1900–1947*, 10 vols. (Delhi: Meenakshi Prakashan, 1980–), 5: 46–9. Also see “Letter from the Secretary, Government of U.P., to Secretary, Government of India, regarding Mahmud-ul-Hasan of Deoband,” in *ibid.*, 5: 51–2.

⁶⁴ For an image of this letter in Sindhi’s own hand and with his signature, see Aybak, *Ap biti*, 1: page facing 144; Aybak, *Khatirat*, 507. For a translation, which I follow here, see the report from the Director, Criminal Intelligence, Government of India, June 1919, no. 494–7, in *Communism in India* [by] Sir Cecil Kaye, with *Unpublished Documents from National Archives of India (1919–1924)*, compiled and edited by Subodh Roy (Calcutta: Editions Indian, 1971), 128.

⁶⁵ On them, see Lal Baha, “The Activities of the Mujahidin 1900–1936,” *Islamic Studies* 18 (1979): 97–168. Also see [Chapter 2](#).

⁶⁶ For the relevant part in the text of the “silk letters,” see FO 686/149: 259, 267.

⁶⁷ Sindhi, *Kabul*, 60.

⁶⁸ In his testimony before British colonial officials, one Fida Ali, who had spent some time in Moscow in the early 1920s, claimed to have heard from Sindhi’s nephew that “all the bombs thrown in 1920–21 in the Peshawar District were sent by Obeidulla through Mulla Bashir of Chamarkand who found Mohmands and others actually to throw them.” See report by J. M. Ewart of the Intelligence Bureau dated December 14, 1922 in L/P&J/12/162: 43 (IPI-6); cf. Ramnath, *Haj to Utopia*, 220.

would have seen very much in common between this militia and the Salvation Army founded in late Victorian Britain by William and Catherine Booth.⁶⁹ The statement does nonetheless underscore Sindhi's later concern to try to distance himself from his youthful revolutionary fervor.

In its report on seditious activities in India during World War I, the Rowlatt Committee had characterized Sindhi as the person who had "infected some of the staff and students [of Deoband] with his own militant and anti-British ideas . . . and influenced . . . Maulana Mahmud Hassan, who had long been head Maulvi in the school."⁷⁰ Sindhi, however, liked to think of Mahmud Hasan as his inspiration, rather than the other way, and Mahmud Hasan himself is said to have claimed that *he* was the person who had set Sindhi on the path "to war with Britain."⁷¹ In any case, Mahmud Hasan, too, was advocating nonviolence by the time he returned from exile in 1920.⁷² The same was true of his fellow internee on Malta, Husayn Ahmad Madani. The latter had delivered speeches exhorting people to jihad,⁷³ including one he gave in the Prophet's Mosque in Medina with the Ottoman minister of war Enver Pasha in attendance.⁷⁴ But on his return to India, Madani as well came to adopt a resolutely nonviolent path, and this would characterize the remainder of his political career as a leader of the nationalist Muslims and a staunch supporter of the Indian National Congress. Before returning from Malta, as he would later observe, "I opposed the current British rule [in India] with revolutionary, violence-prone ideas (*inqilabi tashaddud-amez khayalat*). It was for this reason that I was imprisoned on Malta for four years. Since my return, I [continue to] oppose British rule but seek Indian independence through non-violent means."⁷⁵

Though these instances suggest a trajectory from violence to nonviolence, the line between the two was not always distinct. `Abd al-Rahim Popalzai, the Frontier Mufti, professed nonviolence in his peasant activism,⁷⁶ yet he was associated with the Naujawan Bharat Sabha, whom historian Bipan Chandra characterizes as "revolutionary terrorists."⁷⁷ An anecdote recounted by Popalzai's biographer `Umar Faruq Khan is also of some interest here. When Popalzai returned in 1936 from a two-year stay in the Hijaz and Faruq Khan went to visit him, Popalzai remarked

⁶⁹ On the early history of this movement, see Pamela J. Walker, *Pulling the Devil's Kingdom Down: The Salvation Army in Victorian Britain* (Berkeley: University of California Press, 2001).

⁷⁰ Rowlatt, *Sedition Committee 1918 Report*, 177.

⁷¹ Madani, *Naqsh-i hayat*, 2: 556–7.

⁷² *Ibid.*, 2: 667. Also *ibid.*, 2: 674–5, for the text of Mahmud Hasan's 1920 fatwa calling upon Indian Muslims to end all forms of cooperation with the British but to "avoid all matters that might entail violence (*fasad*) and the breach of peace."

⁷³ *Ibid.*, 2: 636.

⁷⁴ *Ibid.*, 2: 641; also see Madani's statement dated January 20, 1917, in FO 686/149: 204.

⁷⁵ Madani, *Maktubat-i shaykh al-Islam*, 2: 150–71, at 152 (letter #36). The letter, addressed to a correspondent from Sylhet in Bengal, is undated, but internal evidence suggests that it was written during the last years of colonial rule.

⁷⁶ See [Chapter 7](#), n. 87.

⁷⁷ Chandra, "The Ideological Development of the Revolutionary Terrorists."

that he had brought a “gift” for his old friend and associate. He was referring to the *Ahkam al-Qur’an* of Jassas, in which, as Faruq Khan summarizes it, this Hanafi jurist “deems acts of individual violence, when committed with the approval of the community and intended for the revival of national life, to be permissible. As proof, he adduces Abu Ayyub al-Ansari’s Constantinople episode.” Faruq Khan continues:

This was a question on which I was in disagreement with the late Mawlana [i.e., Popalzai]. I believed, as I still do, that a revolution only takes place on the basis of a change in popular consciousness rather than of individual acts of conspiracy or violence. But the Mawlana considered such acts to be permissible and even commendable in some instances. He used to say that it is only through the individual sacrifice of the brave that life is infused into dead nations . . .⁷⁸

It would be anachronistic to expect either Popalzai or Faruq Khan to refer to the question of suicide bombing here. We have to wait until after 9/11 to find explicit Deobandi discussions of this subject. Popalzai’s adducing, already in the 1930s, the relevant passage in Jassas even as he supported the peasant activists’ nonviolent course is suggestive nonetheless of some of the tensions and contradictions of Deobandi thought. These contradictions have come to be on fuller display in more recent years.

In an undated letter addressed to Mufti Muhammad Taqi `Uthmani of the Dar al-`Ulum of Karachi and probably written sometime in the late 1970s or the early 1980s, a South Asian Muslim living in Saudi Arabia expressed reservations about a review Taqi `Uthmani had published on a short biography of the Prophet Muhammad. The author of the book, `Abd al-Shakur Laknawi, had observed that jihad is only legitimate for the wronged (*mazlum*), which is to say that the only kind of jihad that is permitted is in self-defense. Taqi `Uthmani had taken strong exception to this view, arguing that “the real purpose of jihad is ‘the exaltation of the word of God,’ which entails establishing the domination of Islam and destroying the might of unbelief. To this end, aggressive (*iqdami*) jihad is not merely permissible but often obligatory and a source of [divine] reward.”⁷⁹ Taqi `Uthmani’s correspondent, one Sayyid Badr al-Salam, quoted this passage to express his disagreement with it. Like `Abd al-Shakur Laknawi, he was of the view that armed struggle by Muslims is only justified in self-defense and that Muslims should not begin hostilities against any state that has no aggressive designs on them. The proper path for promoting the interests of Islam, the correspondent believed, was that of peaceful proselytism, and there could be no justification for aggression against a non-Muslim state that allowed opportunities to Muslims to preach their faith in it.

⁷⁸ `Umar Faruq Khan, *Ishtiraki `alim*, 24–5. The title of Jassas’s book is not mentioned here. It is worth noting that Popalzai had met `Ubayd Allah Sindhi during his time in Mecca, although there is nothing to suggest that Sindhi had introduced him to Jassas’ work. See *ibid.*, 41.

⁷⁹ For the full text of the review, see Muhammad Taqi `Uthmani, *Tabsire*, 416–18; quotation at 417.

In response, Taqi `Uthmani disputed the idea that opportunities for peaceful proselytism constituted sufficient grounds for regarding a non-Muslim state as friendly.⁸⁰ The crucial issue, he argued, was the might (Urdu: *shawkat*; Arabic: *shawka*) of the non-Muslim states, which, being greater than that of Muslim states, was by itself an obstacle on the path to proselytism. Formal permission to preach Islam in such a situation became meaningless, he said, for the power of the state so conditioned people as to render them incapable of being properly receptive to Islam. It was this power that jihad sought to undo, Taqi `Uthmani said, and he concluded his response with contemptuous disdain for the view that the sort of expansionist aggressive jihad represented no longer had a respectable place in the modern world.

Read in the years since 9/11, it is easy to see the sinister implications of this position. It is all the more striking in view of Taqi `Uthmani's reputation as a "moderate" Deobandi scholar and his close involvement with global, including Western, ventures in Islamic finance (see Chapter 7). A short piece in *The Times* of London (September 8, 2007) reproduced some of the more damning extracts from the aforementioned exchange with the correspondent from Saudi Arabia and went on to note that Taqi `Uthmani's "views explode the myth that the creed of offensive, expansionist jihad represents a distortion of traditional Islamic thinking."⁸¹ Dick Morris, a former consultant to President Bill Clinton, also adduced Taqi `Uthmani in a 2009 book as a prime example of the kind of radical Muslim thinking that threatens the West.⁸² That, in turn, generated yet another query in which a Muslim correspondent from South Africa asked Taqi `Uthmani to clarify whether he had issued a "fatwa" urging "Muslims living in the West [to] conduct violent jihad against the infidels at every opportunity."

In response to this new query, posted on his home page, Taqi `Uthmani denies that he had issued any such fatwa.⁸³ He also insists that *The Times* of London had quoted his words out of context, that he had not reviewed the aforementioned Urdu article before it was reprinted in a collection of his essays, and that the English translation is not altogether accurate. He continues to make some earlier points,

⁸⁰ For the text of the query and Taqi `Uthmani's response, see Muhammad Taqi `Uthmani, "Iqdami awr difa'i jihad: Aik maktub awr uska jawab," in idem, *Islam awr jiddat pasandi* (Karachi: Maktaba-i Dar al-'Ulum, 1999), 97–109. The letters are undated in this published version. But Taqi `Uthmani's review to which his correspondent refers was first published in the Dar al-'Ulum's monthly journal, *al-Balagh*, in June 1971. For a brief discussion of this exchange, see Muhammad Qasim Zaman, "Pluralism, Democracy, and the `Ulama," in Robert W. Hefner, ed., *Remaking Muslim Politics* (Princeton: Princeton University Press, 2005), 66–9.

⁸¹ Andrew Norfolk, "Our Followers 'Must Live in Peace Until Strong Enough to Wage Jihad,'" *The Times* (London), September 8, 2007.

⁸² Dick Morris and Eileen McGann, *Catastrophe* (New York: Harper, 2009), 264–79.

⁸³ <http://www.muftitaqiusmani.com/NewsEvents.aspx?ID=14> (accessed November 1, 2009). The query and the response to it are both in English. That the original query, published in *Islam awr jiddat pasandi*, had come from a person living in Saudi Arabia is mentioned in Taqi `Uthmani's response to this South African query.

but in a notably muted tone: “. . . merely allowing Islamic missionaries [entry] into a non-Muslim country does not mean that it has no hostile designs against Islam and Muslims. It is possible that despite permitting Islamic missionaries working on its soil, a non-Muslim government is a political danger to the freedom and honor of an Islamic state, in which case jihad is not forbidden.” He now also makes the crucial observation, missing in the original exchange, that “whatever I have mentioned in my letter on jihad is relevant to a formal/regular Islamic state. It has no relation to the individuals living in a non-Muslim country.” He underscores this further by quoting Qur’anic passages that enjoin peace with the unbelievers (Q 8.61; Q 2.190; Q 60.8).

If Taqi `Uthmani’s response to his correspondent from Saudi Arabia can be read as an endorsement of Islamist militancy, it is worth asking how it might have been understood in its *pre-9/11* context. For one thing, Taqi `Uthmani’s position is a *theoretical* defense of the idea of jihad, not a call for people to embark upon it. His concern is to safeguard what he sees as Islam’s timeless verities against efforts by Muslim modernists to reinterpret or repackage Islam in light of their liberal values. Taqi `Uthmani’s discussion of jihad in his Arabic commentary on the hadith collection of Muslim b. al-Hajjaj (d. 875) is also instructive here. Published from the mid-1980s onward, this commentary, too, takes a hard line on jihad, castigating those who would have people believe “that jihad in Islam is only for defense and that it is not permitted for Muslims to fight the unbelievers in order to make them submit to the authority of Islam and for the elevation of God’s word over theirs, except in cases where the unbelievers begin hostilities.” Taqi `Uthmani names Jamal al-din al-Afghani, Muhammad `Abduh, Rashid Rida, and, in the Indian context, Sayyid Ahmad Khan, Chiragh `Ali, and Shibli Nu`mani as the leading lights of this “reprehensible innovation.”⁸⁴ And he recommends a work by `Ali b. Nufay` al-`Alyani as “one of the best” of what has been written in refutation of this idea. Incidentally, al-`Alyani’s book – based on a PhD dissertation supervised by Muhammad Qutb, the brother of Sayyid Qutb, and submitted in 1984 to the Umm al-Qura Islamic University of Mecca – is singled out by Qaradawi for sharp criticism: “This writer and his likes hurt Islam far more than do its open enemies. Unknowingly, they serve the enemies of Islam more than do the Christian preachers.”⁸⁵

More may have been at stake, however, in Taqi `Uthmani’s response to the correspondent from Saudi Arabia than just a theoretical defense of jihad. The latter’s preference for peaceful proselytism, specifically in non-Muslim states that allow the freedom to call others to one’s faith, raises the possibility that Taqi `Uthmani

⁸⁴ Muhammad Taqi `Uthmani, *Takmilat fath al-mulhim*, 3 vols. (Karachi: Maktaba-i Dar al-`Ulum, 1986–91), 3: 12. Taqi `Uthmani’s commentary continues an unfinished work by Shabbir Ahmad `Uthmani, a leading Deobandi scholar of an earlier generation.

⁸⁵ Qaradawi, *Fiqh al-jihad*, 1: 245–54, at 254. The work being criticized is `Ali b. Nufay` al-`Alyani, *Ahammiyyat al-jihad* (Riyadh: Dar tayba, 1995).

was arguing with a member of the Tablighi Jama`at. If this is, indeed, the case, then Taqi `Uthmani is to be seen as trying to enlighten him not only about the virtues of jihad but also about the constraints that his simple-minded proselytism would face in Western societies. If we assume, finally, that this exchange took place sometime in the early 1980s, when Pakistan under General Muhammad Zia al-Haq – a patron of Taqi `Uthmani – was actively engaged in providing logistical and other support to the anti-Soviet struggle in Afghanistan, then Taqi `Uthmani's views can easily be seen as part of a sustained Deobandi effort to help cultivate a desire for jihad next door.⁸⁶

For all his hard line views on jihad, Taqi `Uthmani is a far cry from the Taliban of Afghanistan and Pakistan or, for that matter, the Deobandi militants who have spearheaded sectarian anti-Shi`a violence in Pakistan since the mid-1980s. Unlike them, Taqi `Uthmani is a highly respected and prolific religious scholar with an international stature. What his aforementioned views suggest nonetheless is the difficulty of neatly classifying the `ulama between the extremists and the moderates, the activists and the quietists, the political and the apolitical. It is also a reminder that, from the perspective of the `ulama, jihad and terrorism are very different things: jihad is a Qur`anically mandated obligation, a praiseworthy calling, whereas terrorism, like suicide, is forbidden. As they see it, Western imperialist powers bent upon the destruction of Islam seek to outlaw all forms of legitimate resistance by branding it terrorism, and these powers have never failed to find defeatist Muslim clients who would endorse such views. Muslim militants, too, give a bad name to Islam, and to jihad, through wanton acts of violence. But precisely how jihad as legitimate warfare might be distinguished from terrorism without undermining the teachings of Islam or giving comfort to the enemy remains an unresolved problem. We have seen Qaradawi struggle with this question. The Deobandis have never confronted it more acutely than in the aftermath of 9/11 and the rise of the neo-Taliban insurgency in Pakistan.

DEOBANDI DISCOURSES: AFTER 9/11

Under intense American pressure and to stem the cross-border movement of the neo-Taliban militants as well as their growing strength within the country, the Pakistani military has conducted extensive operations in the tribal areas of the Khyber Pakhtunkhwa province since early 2004. These operations have targeted terrorist bases, but they have also caused considerable loss of civilian life and much other dislocation. With its Predator drones, the U.S. military, too, has helped eliminate many militants in this region, but wayward missiles have killed numerous civilians, fueling anti-American sentiment well beyond the tribal areas. For their part, the

⁸⁶ His elder brother, Mufti Muhammad Rafi `Uthmani, too, had published a book – first serialized in various magazines in the late 1980s – that extolled those who had participated and died in the anti-Soviet Afghan war. See Zaman, *The Ulama*, 134.

Taliban and their allies have continued to wage a guerilla war against the Pakistani military. They have also carried out horrendous suicide bombings throughout the country, ostensibly to avenge the military operations against them. This is the context in which Deobandi and other `ulama of Pakistan have sought to articulate their stance as regards the actions of the Pakistani Taliban. They have not been notably successful in doing so.

In April 2008, a group of leading `ulama issued a collective statement that dealt, among other things, with suicide bombing. It underlined the Islamic prohibition of suicide, but it also acknowledged the belief held by “some people” that

in case of genuine need in a legitimate war, it is permissible to resort to a suicide attack provided non-culpable people (*be-gunah log*) are not a target. This would be akin to the well-known stories of Pakistani soldiers who had strapped bombs to their bodies when facing Indian aggression at the battlefield of Chawinda in 1965. They had thrown themselves before Indian tanks and thereby stopped their advance. Since this is a matter of juridical disagreement (*ijtihadi mas'ala*), if a person resorts to such action in defense of his country and community against the enemy in a just war (*ja'iz awr bar-haqq jang*), it is to be hoped that God will accept his sacrifice on the basis of the purity of his intentions. But all this has to do with a just war against a clear and open enemy. It has nothing to do with a situation in which believing Muslims (*kalima-go musalman*), or such non-Muslims whose lives and property have been made inviolable by God, are being targeted. A Muslim who utters the profession of faith, however sinful he might be in practice, enjoys the inviolability given to him by God. And the Qur'an and the hadith have characterized the murder of such a person as an unforgivable sin A suicide attack that targets Muslims or peaceful citizens of a Muslim state comprises a double sin: that of willfully killing a person . . . and that of suicide, on whose prohibition there is no disagreement.⁸⁷

Despite its seemingly emphatic tone, the statement's equivocation is unmistakable. For one thing, it acknowledges that there are arguments *for* suicide bombing, in case of necessity and in a just war. The idea that such tactics are illegitimate against fellow Muslims and inviolable non-Muslims also leaves unresolved the question of whether those engaging in suicide bombing and other violence would agree that their targets are either Muslim or inviolable.⁸⁸ The statement goes on to say that

⁸⁷ “Mawjuda buhran – asbab awr `ilaj: Mulki surat-i hal par mulk ke mumtaz `ulama-i kiram ka mushtaraka mawqif,” *al-Faruq*, 24/4 (May 2008): 5–10; quotation at 6. *al-Faruq* is the monthly journal of Jami'a Faruqiyya, a prominent Deobandi madrasa of Karachi known for its militant ties. Qari Husayn, “the Pakistani Taliban's chief suicide bomb instructor” is said to be a graduate of this madrasa. See Jane Perlez and Pir Zubair Shah, “In Violent Karachi, Pakistani Insurgency Finds a Haven and a Forge,” *The New York Times*, May 22, 2010: A4, A6.

⁸⁸ Thus, in a July 2011 video showing the execution of sixteen Pakistani policemen at the hands of the Taliban, the condemned men are characterized as *murtadds* or apostates. See Salman Masood, “Video from Taliban Shows the Killing of 16 Pakistanis,” *The New York Times*, July 19, 2011: A6. According to Islamic law, apostasy from Islam is punishable by death.

these suicide attacks are really a manifestation of extreme frustration at government policies and of the resulting dejection. These people have set themselves on the path to violence after having been disillusioned with all peaceful paths. They undoubtedly also include the young men whose houses have been reduced to rubble as a result of American or [Pakistani] governmental operations and who have seen their loved ones die a painful death in these operations . . . ⁸⁹

The statement also suggests, not quite consistently, that suicide bombings might well be the work of a foreign hand trying to provoke “emotional people” for their own ends.⁹⁰ Among its recommendations is to put a stop to military operations in the tribal areas, to end the “blind” Pakistani support for the U.S.-led War on Terror, and to stop the government’s anti-Islam policies. There are “moderate” notables and `ulama in the tribal areas just as there are “inflamed” ones, the signatories to the statement say; but the anti-Islam policies of the government have robbed the moderates of “anything positive” that they can put before the radicals.⁹¹

Two years later, in April 2010, leading Deobandi `ulama, nearly 150 of them, issued another statement. Drafted by Taqi `Uthmani, who was a signatory to the 2008 statement as well,⁹² it begins by lamenting the corruption, lawlessness, and socioeconomic disparities in the country, all of which it attributes to the government’s failure to implement Islam. This, in turn, is said to account for the rise of “extremist movements.” But it also observes that Pakistan’s travails have been exacerbated by its immersion in a “US-imposed war that seeks to further American interests.”⁹³ “Suicide attacks and terrorist actions have played havoc with the country,” it continues, adding that “all patriotic circles have repeatedly condemned such acts and have characterized them as illegitimate (*na-ja`iz*).” A major reason for the incidence of terrorism lies, according to this statement, in the Afghan policy of General Pervez Musharraf and his successors, and it calls on the government to distance itself from the American war effort in Afghanistan and to negotiate with the militants. It also urges the militants to pursue their goals – the implementation of Islamic law and an end to foreign domination over the

⁸⁹ “Mawjuda buhran,” 7.

⁹⁰ Ibid.

⁹¹ Ibid., 8. The “anti-Islam policies” refer to various measures by General Pervez Musharraf, which included, besides the military operations in the tribal areas, a controversial amendment to Islamic criminal laws (*hudud*) relating to women, attempts at the reform of the school curriculum “in order to make it look good to others,” and the destruction of mosques in Islamabad (see “Mawjuda buhran,” 5). The latter is a reference to the military’s storming of the Red Mosque in Islamabad in July 2007. For a discussion of some of these events, see Muhammad Qasim Zaman, “Pakistan: Shari`a and the State,” in Robert W. Hefner, ed., *Shari`a Politics: Islamic Law and Society in the Modern World* (Bloomington: Indiana University Press, 2011), 220–32.

⁹² For the text of the 2010 statement, prefaced with an editorial note, see Zahid al-Rashidi, “Mawjuda surat-i hal main `ulama-i Deoband ka ijtimai mawqif,” *al-Shari`a* (May 2010): 2–6. For the full list of signatories to the 2008 statement, which was not limited to the Deobandis, see “Mawjuda buhran,” 9–10.

⁹³ Zahid al-Rashidi, “Mawjuda surat-i hal,” 3.

country – in a peaceful manner: “for armed struggle [in this instance] is not only wrong from the perspective of the shari`a, it is also extremely harmful to these goals. It is directly benefiting our enemies; and America is using it as justification for perpetuating its influence in the region.”⁹⁴

Despite the reference to “repeated” condemnations of terrorism, there is, in fact, no unequivocal disavowal of the Taliban in this statement, no clear rejection of suicide bombing. Remarkable as it is, this omission is the price that the signatories appear to have paid for having a declaration at all that would give expression to their “collective stance.” It may also reflect some apprehension of the Taliban, who have targeted religious scholars publicly critical of suicide bombings.⁹⁵ The omission underscores the signatories’ hostility toward U.S. policies. But it also draws attention to their deep misgivings about the Pakistani governing elite. The latter sentiment is brought out in an illuminating newspaper article by Zahid al-Rashidi, a signatory to both the 2008 and the 2010 declarations.

The article, published in December 2009, seeks to explain why the `ulama are reluctant to issue a collective (*ijtima`i*) fatwa that would condemn suicide bombings *and* express full support for the government’s War on Terror. The reason, Zahid al-Rashidi suggests, lies precisely in this conflation: while the `ulama have repeatedly made it clear that “taking up arms and challenging governmental writ within the boundaries of the Islamic Republic of Pakistan are wrong . . . and targeting peaceful citizens, mosques, and imambargahs [places of Shi`i devotional practice] is a heinous act, . . . to support government policies and stand up for them is a different matter.”⁹⁶ The government, he says, has done nothing to take the `ulama into confidence or to address their concerns – which reflect those of the people at large – about how Pakistan’s alignment in the War on Terror has tended to compromise its self-determination. Nor has the government done much to implement Islamic law, as the constitution requires it to. The `ulama’s fear, as Zahid al-Rashidi sees it, is that their support for governmental policies on terrorism would be seen as a blanket approval of *all* its policies, including the allegedly anti-Islamic ones, and the `ulama are not interested in handing it this gift. He cites a story which has `Abdallah ibn `Abbas (d. 687), a famous companion of the Prophet, tell a questioner that there is no way of repenting for murder. When some of his students later objected that the position was contrary to Ibn `Abbas’ own views, he observed that his response was dictated by the fear that the questioner was on his way to murder someone.⁹⁷ The moral of this story, as Zahid al-Rashidi spells it out for us, is that the mufti should not just address the question before him

⁹⁴ Ibid., 4.

⁹⁵ Ashfaq Yusufzai, “Wafaqul Madaris VP Shot Dead,” *Dawn*, September 16, 2007; “Taliban Kill Cleric Critical of Suicide Attacks,” *Dawn*, November 14, 2008. The former instance refers to a prominent religious scholar of Peshawar, Pakistan, the latter, to a prayer leader in Afghanistan’s Farah province.

⁹⁶ Abu `Ammar Zahid al-Rashidi, “Dahshat-gardi ke khilaf fatwe ki shar`i ahammiyyat,” *Daily Pakistan* (Lahore), December 22, 2009.

⁹⁷ The story is also recounted in Palanpuri, *Rahmat Allah*, 5: 239–40.

but also consider the questioner's intent or purpose (*maqsid*) in asking it so as to forestall its misuse. In this instance, a refusal to do the government's bidding is to prevent it from misappropriating what the `ulama might have to say. Zahid al-Rashidi concludes the article by proposing the sort of question that *should* be put before the `ulama in seeking a collective fatwa from them:

The Great Leader, Muhammad `Ali Jinnah, had clearly stated that the purpose of the founding of Pakistan was to have it ruled by the Qur'an and the Sunna. The Pakistani constitution has also clearly guaranteed the same thing. What, then, do the `ulama consider to be the shari'a ruling on those who have been obstructing this [implementation of Islamic law] for the past sixty years? And what is the shari'a ruling on those who have taken up arms in the name of the implementation of the shari'a, and who have been causing murder and mayhem, destroying the peace, and targeting mosques, places of worship and peaceful citizens in the form of suicide attacks?⁹⁸

It is hard not to see Zahid al-Rashidi as disingenuous in diverting attention away from the Deobandi `ulama's failure to take a clear stand on suicide bombing and other forms of terrorism. He would acknowledge no such thing, of course, but simply reiterate, as have other Deobandis, that the rise of terrorism and the insincerity of the ruling elite's Islamic commitments are intertwined. He would also deny that he is positing any moral equivalence between the two. And yet there is enough ambiguity here for the more "inflamed" to justify their militancy precisely in terms of the state's having failed Islam.

Suicide bombing is the most extreme form in which the problem of violence has arisen in contemporary Islam. As the foregoing review should suggest, however, it is hardly the only issue the Deobandis have had to address in relation to the question of violence. A more fundamental, if considerably less dramatic, problem concerns the limits of obedience to constituted political authority. The implicit and not infrequently explicit suggestion that the failure of successive Pakistani governments to properly implement the shari'a "explains" the rise of religious militancy seems to have done much to erode the legitimacy not just of particular governments but of the state itself. Even so, as has been seen, leading Deobandis have continued to insist that the militants are wrong in challenging the authority of the state. This continues a long Sunni tradition of urging obedience to constituted political authority in all circumstances short of the ruler's apostasy, though it does not provide a satisfactory answer to those who would consider their rulers to have indeed become apostates by way of their anti-Islamic policies. Nor does the moderates' own lambasting of the government's un-Islamic measures do very much to calm things down. That the Deobandis' own history offers rather contradictory clues about how to proceed in the present complicates matters still further.

Ashraf `Ali Thanawi, the influential Deobandi scholar of colonial India, had consistently argued that it was illegitimate even to subvert British colonial rule

⁹⁸ Zahid al-Rashidi, "Dahshat-gardi."

because the inhabitants of India had entered into an implicit “contract” with the foreign masters.⁹⁹ This position was in marked contrast with Husayn Ahmad Madani’s, let alone with `Ubayd Allah Sindhi’s. In its implications, it is easy to see that Thanawi’s position would not recommend itself to the neo-Taliban.¹⁰⁰ An essay on Madani’s political thought by Mufti Muhammad Zahid, a professor of hadith at a Deobandi madrasa in Faisalabad in the Punjab, acknowledges that Madani is, indeed, held in considerably higher esteem in militant Deobandi circles today than is Thanawi.¹⁰¹ Yet precisely what Madani’s legacy amounts to in the contemporary Pakistani context is a matter of some debate among the Deobandis. As Zahid presents it, there are those who hold that Madani was the politically engaged `alim par excellence, one who challenged the might of the English, suffered imprisonment and other hardships in the course of his political struggle, and eventually helped dislodge infidel rule. Implicit in this view is a criticism of those who would identify themselves most comfortably with *Thanawi*’s teachings rather than with Madani’s politics. Because Madani was a bitter opponent not just of the British but also of the westernized leadership that spearheaded the demand for Pakistan, taking Madani as an “ideal” is also a none too subtle indictment of Pakistan itself.

Mufti Zahid’s concern is not to criticize Madani in defense either of Thanawi or of Pakistani nationalism. Nor does he counsel the Deobandi radicals to avoid seeking “inspiration” from Madani.¹⁰² His purpose is to show, rather, that Madani’s words and actions provide a very different picture of his politics than what many contemporary Deobandis would like to believe. Following his return from internment on Malta, Zahid reminds his readers, Madani had come to embrace a nonviolent political approach and he remained committed to it for the rest of his career. Nor is there any trace of vigilantism in Madani’s political action, Zahid says in an obvious reference to Pakistani militant groups taking up arms for the implementation of the shari`a in their locales. It would not have been too difficult for Madani, he says, to take over public buildings in Deoband with the help of his numerous students and to proceed with the implementation of the shari`a in the town. But

⁹⁹ Zaman, *Ashraf `Ali Thanawi*, 44, 52–4.

¹⁰⁰ Sindhi might have been thought a good candidate for adoption by the neo-Taliban. But, unlike Madani, no notice seems to have been taken of him. To the extent that they have heard of him, the puritanical Taliban would presumably find many of his critiques of the Islamic tradition unpalatable, which is decidedly not the case with Madani’s religious views. But even here, things might be less clear-cut than appears at first. Nizam al-din Shamzai (d. 2004), the chief mufti of the Jami`at al-`Ulum al-Islamiyya madrasa of Karachi and held in high esteem by the Taliban of Afghanistan, had once presided over a session at a conference commemorating the fiftieth death anniversary of Sindhi. See Abu Salman Shahjahanpuri, *Maqalat-i Mawlana `Ubayd Allah Sindhi Seminar Karachi 1994* (Karachi: Mawlana `Ubayd Allah Sindhi Academy, 1994), 11. On Shamzai, see Zaman, “Tradition and Authority,” 73–4.

¹⁰¹ Mufti Muhammad Zahid, “Mawjuda pur-tashaddud tahrifen awr Deobandi fikr wa mizaj,” *al-Shari`a*, 20/11–12 (November–December 2009): 67–79, at 69.

¹⁰² The words “inspiration” and, in the previous paragraph, “ideal,” are both transliterated in Zahid’s essay: *ibid.*, 69. Subsequent references to this article are mostly in text.

Madani never resorted to any such move (70). His concern was not with “the partial implementation of the shari‘a by force of arms, but rather with the consequences particular policies would have for the strength and success of the Muslim world as a whole” (71). And he believed that Muslim interests were best served by a peaceful political struggle for an end to colonial rule and by the utilization of opportunities to present Islam to non-Muslims in a favorable image (72).

In an unexpected move, Zahid also quotes from a letter written in 1931 in which Madani had argued against those who rejected all interaction with non-Muslims. It was such interaction, Madani wrote, that had contributed to the spread of Islam in India; “if only there were more rulers like [the Mughal emperor Akbar, r. 1556–1605] or if his policies had remained in effect . . . the devotees of Islam would be in a majority in India today.”¹⁰³ Akbar, of course, is the *bête noire* of the conservative religious circles for policies that were at considerable remove from Islam as the ‘ulama understood it.¹⁰⁴ Madani acknowledged that Akbar had made “some mistakes as regards the religion of Islam,”¹⁰⁵ but he saw nothing scandalous in his views. Zahid is more critical of Akbar, yet his interest lies in the implications of Madani’s commendation of Akbar rather than in a reevaluation of the Mughal emperor himself. Specifically, he is interested in spelling out the implications of Madani’s favorable view of Akbar for the Deobandi militants’ view of Pakistan. The constitution of Pakistan recognizes Islam as the state religion and stipulates that no law would contravene the Qur’an and the Sunna, Zahid says, which is much better than Akbar’s India. If the ‘ulama of Akbar’s time thought even of his polity as the Abode of Islam, and Madani and like-minded ‘ulama continued to have a “soft corner” for him, then Pakistan, which is not a secular state and “is considerably less irreligious” than Akbar’s India, deserves to be judged less harshly. Pakistan is akin to a Muslim who has many failings but is a believer nonetheless. This is not to condone the irreligiousness one finds in Pakistan, Zahid says, but only to suggest that it does not merit “a war or a revolt against the state” (72–3).¹⁰⁶

Mufti Zahid also cites Madani’s counsel to fellow Muslims during and after the partition of India to remain peaceful despite severe provocation (77–8.). He lauds Madani for having the “moral courage” to acknowledge that the suffering of Muslims was the result of their own actions and not just of their opponents’ (76–7).¹⁰⁷ And he concludes by urging his fellow Deobandis to have the courage to

¹⁰³ Madani to ‘Abd al-Bari Nadwi, July 24, 1931, in *Maktubat-i shaykh al-Islam*, 1: 141–9, at 144 (#63). Quoted, from a different edition, in Zahid, “Mawjuda pur-tashaddud tahraken,” 72. On ‘Abd al-Bari, see Zaman, *Ashraf ‘Ali Thanawi*, 103–4.

¹⁰⁴ See *EI*³, s.v. “Akbar” (by D. Streusand).

¹⁰⁵ *Maktubat-i shaykh al-Islam*, 1: 144.

¹⁰⁶ The word I have translated as irreligiousness (*la-diniyyat*) here is in quotation marks in Zahid’s essay: “Mawjuda pur-tashaddud tahraken,” 72.

¹⁰⁷ Citing, inter alia, *Maktubat-i shaykh al-Islam*, 2: 285–7 (Madani to one ‘Abd al-Rahim of Surat, June 10, 1947 [# 84]). This letter was written in the months immediately preceding the partition of India, when Hindu-Muslim riots were at their peak in many places. The correspondent had spoken of

take unpopular stands rather than saying only the sort of things their audiences might wish to hear from them:

The present time has imposed a great responsibility on the Deobandi leadership. . . . This responsibility is not best fulfilled by condemning America, the present [Pakistani] government, or the current system (*nizam*). As commendable as such [criticism] might be, it is considerably less demanding than the task of providing patient and determined leadership to those of our own folk who might be committing errors. . . . The truth is that the Deobandi leadership will have to come out of its interest-based shell and provide this leadership. . . . In my estimation, if we were to speak in a proper and reasoned manner, it would not be ineffective. The necessary condition for this is that policy matters should not be given the status of sacred doctrine; they should be open to general debate, and we ought to foster the ability to listen to things that diverge from an established point of view. Today, the setbacks that the US, Britain, and their allies suffer in Afghanistan are the subject of public debate in the West; policies are criticized, discussions take place, and failures are debated. The truth is: I fear that such openness might well prove to be the biggest strength of the West (79).

It is far from clear how influential such voices are in Deobandi circles in Pakistan. They point, in any case, to public debate among the Deobandis on some of the most pressing issues of the time and, what is no less important, to a recognition of the *need* for public debate. It is not easy to have such debate. As noted earlier, the Taliban and allied groups in both Afghanistan and Pakistan have sometimes attacked religious scholars and functionaries openly critical of their ways, and they have warned journalists not to report on their activities in unfavorable ways. On occasion, some religious critics of the Taliban have also been reprimanded by fellow scholars for blurring the distinction between the *Taliban's* jihad and jihad as such. The allegation here is that people who do not have the courage to openly disavow jihad do so indirectly, pretending merely to be criticizing the Taliban's prosecution of it. Such people are told to repent for a criticism that borders on the blasphemous.¹⁰⁸ Even the critics of the Taliban would, furthermore, not wish to appear lukewarm about the public implementation of the shari`a, let alone as "pro-American."

Muslim suffering in such riots in eastern India. Madani reminds him that, in several instances, it was the Muslim League, the party spearheading the movement for Pakistan, which bore primary responsibility for this rioting. Writing in Pakistan, Zahid prudently omits this harsh assessment as well as Madani's parting observation that the establishment of "Pakistan amounts to Muslims [of undivided India] committing suicide." *Ibid.*, 2: 287.

¹⁰⁸ For an example of such discourse, see Fadl Muhammad, "Dawr-i hadir ke mujahidin par i'tiradat ka 'ilmi ja'iza." *al-Shari'a*, 20/5-6 (May-June 2009): 120-44. Muhammad is a teacher of hadith at the Jami' at al-'Ulum al-Islamiyya, a prominent Deobandi madrasa of Karachi. His essay is a response to a severely critical article on the Taliban: Hafiz Muhammad Zubayr, "Pakistan ki jihadi tahrifen: Aik ta'rikhi wa taqhiqi ja'iza," *al-Shari'a*, 19/11-12 (November-December 2008): 76-105. Zubayr, who is presumably not a madrasa-trained scholar, is a research associate at Lahore's Qur'an Academy. This institution is affiliated with a religiopolitical movement founded by Dr. Israr Ahmad (d. 2010), who had once been associated with Mawdudi's Jama'at-i Islami.



ONE MIGHT THINK THAT THE INDIAN DEOBANDIS WOULD BE ABLE TO TAKE a more resolute position on the Taliban and, more generally, on the question of terrorism. To an extent, they certainly have, but significant ambiguities characterize their discourses as well, and those of the Indian `ulama more generally. In what follows, I consider two examples of this.

At the initiative of the Dar al-`Ulum of Deoband, a conference was held in February 2008 to discuss matters relating to terrorism. By all accounts, this was a massive affair, with up to 30,000 people affiliated with madrasas of different doctrinal orientations as well as various Islamic organizations coming to Deoband from all over the country. The highlight of the conference – indeed, the reason for convening it – was a declaration (*i`lamiyya*) on behalf of the Muslim scholarly community in condemnation of terrorism.¹⁰⁹ Nothing on this scale has so far been attempted in Pakistan.

The declaration begins by proclaiming Islam as a “religion of mercy for all mankind” and it “strongly condemns all forms of violence and terrorism.” But it then quickly proceeds to castigate, in stronger terms, governmental actions against its own citizens, “with the sole purpose . . . of pleasing the unjust, oppressive, and imperialist Western governments . . . whose injustice, barbarism and terrorism have broken all records of the known history of humankind, not just in Palestine, Iraq and Afghanistan, but also in Bosnia and in several South American countries.”¹¹⁰ The declaration goes on to criticize the Indian government’s policies toward the country’s Muslims. Those associated with madrasas live in “constant terror” of being jailed and tortured, it says, while those “who do, in fact engage in terrorism, ransacking police stations, publicly killing police officers, and displaying firearms, roam about freely.”¹¹¹ The latter is an obvious reference to Hindu nationalist organizations and their militant wings, to which some government officials are allegedly sympathetic. As the declaration sees it, such partiality has “put a question mark on the secular character of the government.”¹¹² It demands a fair and impartial governmental investigation of all incidents of violence so that Muslims do not get unfairly targeted each time such incidents occur; and it calls on the media and the intelligentsia to guard against biased reporting and analysis. The declaration ends with a plea to Indian Muslims to continue in their patriotic and law-abiding ways and to be on their guard “against becoming a tool of anti-Islamic or anti-state powers.” It also urges Muslims to

¹⁰⁹ “*Tlamiyya-i dahshatgardi-mukhalif kull Hind conference*,” in Shawkat `Ali Qasimi Bastawi, “*Dahshatgardi ke khilaf Dar al-`Ulum Deoband main ta`rikh-saz kull Hind conference*,” *Dar al-`Ulum* (Deoband), April 2008: 54–6.

¹¹⁰ *Ibid.*, 54–5.

¹¹¹ *Ibid.*, 55.

¹¹² *Ibid.*

have faith in their leadership and to support the madrasas “under all circumstances.”¹¹³

As this summary suggests, the concern of the declaration is less with terrorism and much more with how the War on Terror has further undermined an already marginalized Muslim community in India. Aside from an appeal to Muslims to not become unwitting tools of anti-state elements – which may, in part, be a reference to the machinations of Pakistan-based militant groups as well as the Pakistani military’s Inter-Services Intelligence, the ISI, seeking to attack targets in India – there is no recognition that terrorist actions might involve Muslims in any way other than as victims.¹¹⁴ There is no reference to suicide bombings and no mention of the Taliban, although Indian Deobandis have elsewhere denounced both.¹¹⁵ The silences on this occasion may partly be explained by the exigencies of the moment: if the concern is to assert that Indian Muslims have nothing to do with terrorism and that they should not be unfairly singled out for police harassment, then any acknowledgment that not all Muslims have stayed clear of religiopolitical extremism would be counterproductive. To acknowledge the Deobandi genealogy of the Taliban would likewise necessitate a clear excoriation of their ways, which might well be unpopular in some circles; but even such criticism might seem, ironically, to confirm the popular perception that Deobandi teachings bear some moral responsibility for the Taliban’s actions.

The declaration’s elisions are surely also to be accounted for by the fact that it is Pakistan and Afghanistan, rather than India, that are home to much of the present-day Islamist and Deobandi militancy. Yet India has had its own militant Muslim groups, and not just in the Muslim-majority state of Kashmir. Among these is the Student Islamic Movement of India (SIMI), which emerged in tandem with the increasingly aggressive anti-Muslim stance of Hindu nationalist parties during and after the 1980s and which calls for jihad as a means to the revival of the “caliphate.” SIMI’s origins lie in the Indian Jama`at-i Islami, which, unlike its Pakistani namesake, has become increasingly committed to a *secular* political framework.¹¹⁶ For their part, those associated with SIMI see the promises and guarantees of Indian secularism to be a mirage; and they have been highly critical of the Muslim religious elite for their failure to provide effective leadership to the community, even accusing them “of being ignorant of ‘true’ Islam.”¹¹⁷ SIMI is scarcely the only militant Muslim organization in contemporary India. But it

¹¹³ *Ibid.*, 56.

¹¹⁴ A major terrorist attack in which a Pakistan-based militant organization, the Lashkar-i Taiba, was implicated took place in Mumbai later that year, in November 2008.

¹¹⁵ “Deoband Ulema Term All Taliban Actions Un-Islamic,” *Dawn*, June 20, 2009 (quoting Mawlana Salim Qasimi, the principal of the Dar al-`Ulum Waqf Madrasa of Deoband). In November 2009, the thirtieth general meeting of the Deobandi Jam`iyat al-`Ulama-i Hind also passed a resolution against terrorism, which included a qualified condemnation of suicide bombing (“Suicide attacks which affect innocent women, children, the elderly, and the worshippers are deemed a criminal act by this conference . . .”)

¹¹⁶ On SIMI and the Indian Jama`at-i Islami, see Ahmad, *Islamism and Democracy*.

¹¹⁷ *Ibid.*, 23.

should suffice to highlight some of the awkwardness of the Deoband declaration, which gestures toward such organizations in urging Muslims not to become tools in the hands of anti-state elements even as it mostly refuses to acknowledge their existence.

As in Pakistan, it has not always been easy for the Indian `ulama to distinguish their views clearly from those of the militants any more than it has been to iron out differences on questions relating to terrorism. Both of these difficulties are on display in my second illustration from contemporary India, which comes from a conference on Terrorism and World Peace, held in 2004 in Hyderabad, India, under the auspices of the Islamic Fiqh Academy.

Among the questions on the conference agenda were the following. What does terrorism mean from an Islamic perspective? Do the unjust and oppressive actions of a government toward some of its citizens fall under the category of terrorism? Does resisting such injustice constitute terrorism? What are the scope and the limits of this resistance? And is it permissible for the wronged to target innocent members of the oppressive community?¹¹⁸ The positions articulated in the concluding resolution were not unexpected in light of these questions, though they are rather less hard-edged than some of the questions. Terrorism is defined as “any violent action that unlawfully exposes an individual or a group to fear and intimidation, or endangers one’s life, property, honor, homeland, and religion, irrespective of whether this is done by an individual, a group, or a government.” It is one’s right to defend one’s life, property, nation, and honor whenever any of these are threatened, and such defense does not fall under the category of terrorism. One is not, however, to hurt the innocent, even if and when they belong to the oppressive group. And the problem of terrorism ought to be remedied through attention – presumably by the government – to social justice and human rights and by allowing people to live their lives free of all forms of discrimination.¹¹⁹

This concluding resolution conceals, however, a good deal of the contestation behind it. As recorded in the Fiqh Academy’s published proceedings, there was disagreement on whether the failure of a government to treat all its citizens with equal fairness constituted terrorism or merely injustice.¹²⁰ There also was disagreement on when or how to protest against the unjust actions of the government: some held that one should only protest if doing so was likely to be effective,¹²¹ whereas

¹¹⁸ Islamic Fiqh Academy, *Islam awr amn-i `alam* (Delhi: IFA Publications, 2006), 12; Majma` al-fiqh al-Islami, *al-Irhab wa'l-salam*, 2nd ed. (Delhi: Majma` al-fiqh al-Islami, 2007), 10–11. The latter work, to which I will also refer occasionally, is an abbreviated version of the full conference proceedings as provided in the former work. The conference proceedings are also available in English: *World Peace and Islam*, trans. Obaidullah Fahad (Beirut: Dar al-kutub al-`ilmiyya, 2010); but the poor quality of the translation renders this work unusable.

¹¹⁹ *Islam awr amn-i `alam*, 13–14; *al-Irhab*, 13–14.

¹²⁰ *Islam awr amn-i `alam*, 33–4, 63–4; *al-Irhab*, 33. Note that both the Urdu and the Arabic versions of the conference proceedings give a summary of the positions taken by various contributors; however, the Urdu version lists the names of those holding a particular position, whereas the Arabic version inexplicably omits almost all names.

¹²¹ *Islam awr amn-i `alam*, 67.

others did not wish to place any such restrictions on it. Some, moreover, viewed the defense of life, property, and honor through all possible means as obligatory, others as recommended, and yet others as only permissible.¹²² On the question of whether it was permissible to target innocent members of an oppressive group, the answers reflected different understandings of what “innocent” meant in such contexts. The theoretical position was that the innocent should never be attacked, and some participants affirmed it unconditionally. This view is expressed, for instance, in the contribution by Wahba al-Zuhayli, a noted Syrian jurist and sometime trustee of Qaradawi’s International Union of Muslim Scholars. Not only is it impermissible to avenge oneself against the innocent, he argued, but even the murderers should not be subjected to vigilante action but rather brought to the court of law.¹²³ Several Indian participants took a harder position, no doubt in the context of Hindu nationalism in contemporary India. They held that in matters of *individual* injustice, the perpetrator alone was culpable; however, if others were complicit in an injustice – even in the sense of voting for a party that was the sworn enemy of a particular community – then they, too, were to be deemed unjust.¹²⁴

Significantly, there was also disagreement on the question of suicide bombing. While insisting that neither self-defense nor protest against oppression were to be deemed terrorism, most participants were of the view that such protest should take peaceful forms. Even as Wahba al-Zuhayli agreed that an oppressive and unjust government could be characterized as terrorist, he insisted on the need to deal with this injustice in peaceful ways. At the other end of the spectrum, some argued for the legitimacy of “self-sacrificing operations” (*fida’iyana karwa’iyan*).¹²⁵ In defense of this position, one scholar from the Nadwat al-’Ulama cited the same passage from Shaybani that Jassas had quoted in his discussion of the legitimacy of a suicidal attack on the enemy; he also cited the nineteenth-century Hanafi jurist Ibn ’Abidin to a similar effect. This scholar, Mujib al-Rahman ’Atiq Sanbhali Nadwi, appends the following conditions to the permissibility of such attacks:

The attacker’s purpose should not be suicide. He should have the impression (*guman*) that he would succeed, or that damage would be inflicted on the enemy, or that the Muslims would be emboldened. The [anticipated] effects of the attack are to be measured either by the attacker himself or by his commander. The purpose of the attack is the elevation of religion and of God’s word, not personal ambition, pride, or tribal or national sentiment. The goal is the benefit (*naf’*) of Muslims and their common good (*maslaha*) and the pleasure of God, not unjust aggression as such. Provided these

¹²² Ibid., 82–7.

¹²³ Ibid., 73. Zuhayli’s paper is featured in full in the Arabic version of the conference proceedings: *al-Irhab*, 95–108 (for the relevant passage, see *ibid.*, 103); in Urdu translation, it forms part as well of the full conference proceedings: *Islam awr amn-i ’alam*, 182–93. The paper is also included in a collection of his own essays: see Wahba al-Zuhayli, *Qadaya al-fiqh wa’l-fikr al-mu’asir*, 2 vols. (Damascus: Dar al-fikr, 2006–8), 1: 418–27.

¹²⁴ *Islam awr amn-i ’am*, 72–3.

¹²⁵ Ibid., 30–1.

conditions are met, there is no doubt about the legitimacy of such [attacks]. This kind of attack is therefore not to be reckoned suicide; rather, the attacker is to be deemed a martyr.¹²⁶

One contributor to the conference proceedings, Muhammad `Ali Taskhiri – an Iranian religious scholar who has long been active in efforts to improve relations between the Shi`a and the Sunnis – had linked the question of the legitimacy of suicide bombings specifically to the Palestinians. In concluding his paper, he had underlined the need to, inter alia, “give a legal cover to the Palestinian struggle in general and to martyrdom operations in particular.”¹²⁷ This would have appealed to Qaradawi, on whose International Union of Muslim Scholars Taskhiri has served as a vice president. But the aforementioned Nadwa scholar had made no such qualifications. This scholar presumably saw himself as offering a theoretical defense of suicide bombing in certain unbearably oppressive instances rather than as calling upon fellow Indian Muslims to resort to it. Yet in this respect at least, there is no easy way of demarcating a neat boundary between the likes of him and the militants.¹²⁸

JIHAD, TERRORISM, AND RELIGIOUS AUTHORITY

Little is known in concrete terms about how those engaging in suicide bombings in Pakistan and Afghanistan – to limit ourselves here to this region – get persuaded to do so. There is evidence that people, including children, have sometimes been coerced by the militants to embark upon such operations.¹²⁹ And as we have seen, many Pakistani Deobandis have explained these actions as, inter alia, a natural reaction to military operations in the tribal areas. But quite apart from such

¹²⁶ Mujib al-Rahman `Atiq Sanbhali Nadwi, “Alami amn ka Islami nazariyya,” in *Islam awr amn-i `alam*, 194–220, at 209–10; for the quotation from Shaybani, see *ibid.*, 208–9; also cf. *ibid.*, 30–1. For Ibn `Abidin’s discussion of this matter, itself drawing on Sarakhsi’s commentary on Shaybani’s *Siyar*, see Ibn `Abidin, *Radd al-muhtar*, 6: 206.

¹²⁷ Muhammad `Ali al-Taskhiri, “al-Ahdath al-irhabiyya: Tada`iyatuha wa’l-mawqif al-insani al-matlub,” in *al-Irhab*, 57–83, at 83. The relevant passage in the Urdu translation of Taskhiri’s paper omits the reference to “martyrdom operations” and calls only for “legal protection (*tahaffuz*) to the Palestinian resistance”: *Islam awr amn-i `alam*, 236–58, at 258.

¹²⁸ Two other scholars are also mentioned in the summary of the conference proceedings as condoning “self-sacrificing operations.” One is Mubarak Husayn Nadwi, another product of the Nadwat al-`Ulama now affiliated with a madrasa in Nepal. The other is Sultan Ahmad Islahi, associated with a research institute in Aligarh. Mubarak Nadwi condones “suicide bands” (*khud-kush daste*) when used by an army as part of military strategy or by a freedom movement resisting oppression, for which he cites the case of the Palestinians. But he disapproves of such actions on the part of “terrorist organizations.” See Mubarak Husayn Nadwi, “Amn-i `alam Islam ki haqiqi taswir,” in *Islam awr amn-i `alam*, 259–67, at 262. Islahi, too, is cited as supporting “self-sacrificing operations” (*ibid.*, 30) but his own contribution to the conference proceedings makes no mention of them: see Sultan Ahmad Islahi, “Amn-i `alam awr Islami nuqta-i nazar,” *ibid.*, 373–6. On Islahi, see Chapter 6, n. 62.

¹²⁹ Alissa J. Rubin, “Suicide Attack Continues Afghan Trend,” *The New York Times*, February 27, 2011: A10; Haleem Asad, “Militants Force Girl to Wear Suicide Jacket,” *Dawn*, June 21, 2011.

explanations, it is not unreasonable to assume that those recruited as suicide bombers are also offered some *religious justification* along the way. Precisely who provides it remains murky, but local religious scholars presumably play a role here.¹³⁰ We should not take it for granted – as many observers of tribalism in the Frontier region have done – that religious functionaries are marginal members of the tribal community. On the contrary, they have sometimes been crucial not only in mediating disputes but also in galvanizing tribal clans for action and even in mobilizing the tribe against its khans and maliks.¹³¹ In a community with limited religious literacy, one need not be a distinguished scholar to be recognized as a source of guidance on how Islam expects people to act in a particular situation. Local men of religion may furthermore have a significant mediating role in helping scholarly views “trickle down” to particular settings and become part of the public argument there. This was the case, for instance, with the nondescript scholar at the 1939 peasant conference in Hazara who had echoed the great Andalusian scholar Ibn Hazm in arguing that a peasant taking something from the local khan’s agricultural lands was blameless, that the khan would go to hell should he be killed trying to stop the poor peasant, and that the peasant was to be deemed a martyr were he to die in the skirmish with the khan. Around the same time, as has been seen, `Abd al-Rahim Popalzai had come upon Jassas’s discussion of suicidal violence. We do not know how widely he introduced this into his circles, but it would not have taken much to do so. For his part, Shaybani, on whom Jassas draws, has continued to be quoted in South Asian discussions of the problem of suicide bombing. Shaybani, of course, is no ordinary jurist. He is among the founding fathers of the Hanafi school of law and, as such, a locus of continuing authority in Hanafi circles. Ibn `Abidin, who cites the relevant passage from Shaybani in his own work, likewise enjoys an enviable stature among latter-day Hanafi scholars, not least in South Asia.

The sort of authority madhhab-based norms can command is derisively illustrated by Rashid Rida in an anecdote relating to Afghan students he interviewed at a mosque in Lahore. Rida had heard that some Afghans had broken the index finger of a man who had raised it as part of the prayer ritual but in a way not approved by certain Hanafi jurists. The Afghan students confirmed that this had, indeed, happened, explaining that “it was punishment for opposing the Prophet and abandoning his Sunna, that is, for enmity towards the law of God and for deeming permissible what He has forbidden.”¹³² As so often, Rida had an axe to

¹³⁰ On the role of local religious scholars in the recruitment of potential suicide bombers (in this instance, in southern Punjab), see “Extremist Recruitment on the Rise in Southern Punjab” (U.S. diplomatic cable #178082, November 13, 2008).

¹³¹ For an important corrective in this regard, see Haroon, *Frontier of Faith*. Also see Chapter 6, n. 30.

¹³² Rida, “Kalima fi fawa'id kitab al-mughni,” in *al-Mughni li-Ibn Qudama*, 1: 18, 20; quotation at p. 20. Rida’s is also quoted in Gilani, *Tadhkira-i hadrat Shah Wali Allah*, 188. As Gilani notes, the source from which these Afghans seem to have derived their view of how not to raise the index finger during prayers is Lutf Allah al-Nasafi al-Kaydani’s *Umdat al-musalli*. For a commentary

grind in recounting this story, viz. to bring home the horrors of blind, mindless devotion to the authority of the school of law. In omitting the context of this story, Rida misconstrues it, however. As mentioned in the Introduction, a public debate had taken place on this matter in 1896 on the Afghan frontier between two prominent Sufi scholars, the Mulla of Hadda and the Mulla of Manki. In the presence of a large audience, the Mulla of Hadda had affirmed the necessity of raising the index finger in a particular manner and the Mulla of Manki had opposed it.¹³³ Both men were disciples of the same religious scholar, the Akhund of Swat and, although little is known about their specific arguments, both belonged to the same, Hanafi, school. Though Rida gives no inkling of it, this public contest was at least as much about efforts to best a rival as it was about the constraints of the madhhab, which, in any case, were viewed differently by the two sides.

Yet to the extent that people *do* take the norms and the authority of their Hanafi madhhab seriously, it is not difficult to imagine a religious scholar making the argument to potential recruits in his area that if *Shaybani* had approved of a particular practice, there could no longer be any disagreement on its permissibility. From the perspective of such a scholar, one could hardly privilege westernized condemnations of suicide bombing over *Shaybani's* authoritative view on the legitimacy of “self-sacrificing” operations. This, admittedly, is a hypothetical reconstruction of how a medieval authority like *Shaybani* may have been invoked in militant circles. I have yet to come across evidence that anyone has argued in quite this manner in sending forth suicide bombers on their murderous actions. But the fact that *Shaybani*, *Jassas*, and *Ibn `Abidin* have sometimes been invoked by contemporary scholars in implicit or explicit defense of suicide bombing suggests that this hypothetical reconstruction is not altogether fanciful. Some examples of this have already been seen. Two more are worth noting here.

In his rejoinder to a severe critique of the Pakistani militants and of the unnamed `ulama and muftis urging them on, *Fadl Muhammad*, a teacher of hadith at a leading Deobandi madrasa in Karachi, insists that “suicide attacks are not taking place under the guidance of any holy warrior (*mujahid*), scholar (`alim), or mufti; rather, it is the injustices of the allied forces and of [their] vain (*batil*) world order that has prepared the ground for them.”¹³⁴ Yet, he, too, proceeds to quote from *Shaybani*, via a medieval scholar named *Ibn al-Nahhas* (d. 1411), on the question of the “self-sacrificing attack” (*fida'i hamla*).¹³⁵ On the sensitive issue – presumably in the Afghan context – of whether it is worth killing two American soldiers if

on this work, which takes issue with *Kaydani's* view of the prescription in question, see `Abd al-Ghani al-Nabulusi, *al-Jawhar al-kullī sharh `umdat al-musallī*, ed. Muhammad Ahmad Matar Jasim al-Daylami (Beirut: Dar al-kutub al-`ilmiyya, 2007), 211–12.

¹³³ Edwards, *Heroes*, 156–68; cf. Haroon, *Frontier of Faith*, 84.

¹³⁴ *Fadl Muhammad*, “Dawr-i hadir ke mujahidin,” 137.

¹³⁵ *Ibid.*, 137–8, citing *Shaybani's al-Siyar al-kabir* through *Ibn al-Nahhas, Mashari` al-ashwaq ila masari` al-`ushshaq*, ed. Idris Muhammad `Ali and Muhammad Khalid Istanbuli, 2 vols. (Beirut: Dar al-basha`ir al-Islamiyya, 1990), 1: 560.

fifty Muslims are also killed in the process, Fadl Muhammad first dismisses the hypothetical number of Muslim casualties as exaggerated and then writes:

The suicide bomber (*khudkush bambar*) is very careful in attacking only the infidels. But if so-called Muslims deputed to guard the infidels or making merry in their company get killed, then, according to a hadith, the blood of such a Muslim goes waste. As for suicide attacks in Pakistani areas, however, or in mosques, imambaras and public places, we do not consider them permissible.¹³⁶

Fadl Muhammad might not wish to be counted among jihadist muftis, and he is not a distinguished scholar. But the likes of him would presumably suffice in providing the needed religious justification to those seeking it. In the process, such scholars are also able to affirm their own authority as plain-speaking guides who will honestly tell people what the religious tradition “really” says about situations in which good is pitted against evil.

A considerably more direct endorsement of suicide bombing is to be found in a condensed translation of and commentary on the aforementioned Ibn al-Nahhas’s work on jihad by Muhammad Mas’ud Azhar. A Deobandi `alim, Azhar is the founder of the now-banned Jaysh-i Muhammad (“The Army of Muhammad”), a militant organization active in Indian Kashmir. He was captured in India and was serving a long prison sentence there when Indian authorities were forced to release him in 2000 after an Indian plane was hijacked to Kabul – then under Taliban rule – and the hijackers asked for his release as part of their demands. After translating the passages in Ibn al-Nahhas that have to do with the permissibility of a single fighter, or a small band of fighters, taking on a much larger force, Mas’ud Azhar concludes with the following comment:

This chapter is of very great significance from the viewpoint of the present age. Read it repeatedly to yourself and to one another. For our success in the war that [the forces of] unbelief have imposed on us is only possible if each one of us is determined, like our forbears (*aslaf* [singular: *salaf*]), to enter and breach enemy lines all by himself. . . . In the global jihad that has now begun, an entire battalion cannot do what a single brave man can accomplish. . . . By God, ten young men who are ready to individually sacrifice their lives in a particular way can do more than a force of 10,000. Muslims today should quickly adopt this important manner of warfare and form bands of holy fighters who are ready for sacrifice (*sarfurush*). You will then see how [the forces of] unbelief begin to beg for peace. . . .¹³⁷

¹³⁶ Fadl Muhammad, “Dawr-i hadir ke mujahidin,” 137. For similar discussions in the Saudi context, cf. Madawi al-Rasheed, *Contesting the Saudi State: Islamic Voices from a New Generation* (Cambridge: Cambridge University Press, 2007), 152–3.

¹³⁷ Muhammad Mas’ud Azhar, *Fada’il-i jihad* (Karachi: Maktaba-i Hasan, 2001), 354. For his full discussion on the permissibility of plunging into enemy lines despite overwhelming enemy strength, *ibid.*, 329–54.

Following Ibn al-Nahhas, Mas`ud Azhar briefly alludes to Shaybani, but the celebrated Hanafi jurist is just one of the many authorities mentioned in the work of Ibn al-Nahhas, who had belonged not to the Hanafi but rather to the Shafi`i school of law.¹³⁸ Pride of place belongs – in Ibn al-Nahhas and in Mas`ud Azhar's translation and commentary – not to Shaybani but to the stories of various companions of Muhammad that are deemed to have some bearing on the topic under discussion. This point is important because it gives to Mas`ud Azhar's discussion a resonance that goes well beyond the confines of any particular school of law. To the extent that Deobandi-Hanafi militants have been willing to join hands with radical Salafis, widely circulating works like Mas`ud Azhar's¹³⁹ provide the intellectual and religious rationale for it.

If Mas`ud Azhar or the aforementioned Fadl Muhammad are able to provide the requisite justification for violent action, it is worth asking what prevents other scholars from trying to *wrest* the initiative from the militants and their muftis. Some efforts have, indeed, been made in this regard in Pakistani Deobandi circles, as observed earlier. It is not difficult to visualize a Deobandi scholar making the case that Shaybani, or Jassas, or Ibn `Abidin would not have condoned today's suicide bombings or other forms of wanton violence, that their words are being deliberately misconstrued.¹⁴⁰ One might even imagine the argument that these revered figures were *wrong* in some of the positions they espoused. After all, there is a long tradition of intra-madhhab disagreement, even with the views of the founding fathers, and one does not need to leave the madhhab to express such disagreement. Conversely, in an age in which the hold of the madhhab and of taqlid has loosened considerably, the articulation of a collective ijihad ruling out certain actions would seem to be all the more likely. And yet definitive statements on these matters have seldom been forthcoming. Leaving aside the question of intimidation at the hands of the militants (which would presumably not apply to the Indian Deobandis), a good deal of this reticence is surely explicable in terms of the political context the `ulama find themselves in. From the perspective of both the government and the Pakistani `ulama, as would be recalled from Zahid al-Rashidi's analysis of the problem, to support the War on Terror is to be seen as approving of all governmental policies. To unambiguously denounce the Taliban is, for its part, to put oneself in danger of being viewed as authorizing U.S. actions in the War on Terror and perhaps even of conceding the connection between Islam and terrorism. Similar constraints are at work in the Indian context too, with the

¹³⁸ Cook, *Commanding Right*, 354.

¹³⁹ If its publication data is to be believed, Mas`ud Azhar's book was in its fourteenth printing in 2001. Since its 1999 publication, 26,000 copies had been printed by 2001 – an impressive figure by Pakistani standards. See *Fada'il-i jihad* (front matter).

¹⁴⁰ For an example of such reasoning, with reference to Shaybani, see Muhammad Mushtaq Ahmad, *Jihad, muzahamat awr baghawat: Islami shari`at awr bayn al-aqwami qanun ki rawshani main* (Gujranwala: al-Shari`a Academy, 2008), 464–78, esp. 465. The author is an assistant professor of law at the International Islamic University in Islamabad. He does not, however, write as a Deobandi.

additional worry that a candid critique of Muslim militancy would embolden the police harassment of an already besieged Muslim minority. But the weight of the religious tradition clearly also plays a role in constraining internal criticism on this score. These constraints are felt differently by different `ulama, but even a reformist Salafi like Qaradawi must contend with them.



QARADAWI'S *JURISPRUDENCE OF JIHAD* IS A SELF-CONSCIOUS AND CONFIDENT work of *ijtihad*. He has few illusions about his own authority: his name appears on the cover with the prefix "al-imam," which evokes his Shi'i contemporary "Imam" Khomeini as well as Muhammad `Abduh, whose biography by Rashid Rida uses the same designation for him. It evokes as well one of the designations of the rector of al-Azhar. But the term *imam* is also used in medieval juridical works to refer to leading practitioners of *ijtihad*,¹⁴¹ and this is surely how it is intended in Qaradawi's case. As an *imam* in his own right, he does not hesitate to take aim at revered premodern scholars whenever his argument necessitates it. Yet he also needs, if he is to have credibility with his interlocutors and audiences, to muster the support of the tradition for the positions he espouses. And this is where he seems more vulnerable than he acknowledges.

As we have observed, Qaradawi mischaracterizes the Hanafi position on whether Muslims can attack their non-Muslim foes without provocation. If this is not a mere oversight, it is presumably to be explained as part of his effort to find, even manufacture, whatever actual or illusory support he can for his view that such an attack is impermissible on Islamic grounds. His larger argument is, of course, that it is non-Muslim aggression rather than mere unbelief that is the reason or justification for going to war. Here again, he does not have massive support stacked behind him. Qaradawi quotes extensively from a work attributed to the Hanbali Ibn Taymiyya, which obviously counts as significant affirmation in Salafi circles. But, as he notes, some Saudi `ulama were reluctant to include this short treatise (a summary of a now lost work) in the monumental collection of Ibn Taymiyya's fatwas until convincing proof was produced that the work was indeed his. To Qaradawi, the real reason for their reluctance was, however, that "it did not conform to the approach they had adopted, viz., the obligation of waging war against the entire world, against those making peace with us as much as those who fight" (1: 376). Even if there were no doubt either about the attribution of this treatise or about Qaradawi's understanding of its argument, it is hard not to notice that there are not many *other* authorities that Qaradawi is able to appeal to in making his argument. He does cite the eighteenth-century Yemeni jurist Ibn al-Amir al-San`ani in the same context, but San`ani's discussion of the issue – that mere unbelief is not the reason for fighting unbelievers – is almost entirely based

¹⁴¹ Weiss, "The Madhhab in Islamic Legal History," 7.

on Ibn Taymiyya's treatise. And San`ani himself underscores the rather marginal nature of this argument, noting that, until he chanced upon Ibn Taymiyya's work, he had only seen some allusions to it in one legal commentary.¹⁴²

Unsurprisingly, Qaradawi does not acknowledge the meagerness of resources available to him. Instead, he employs a number of rhetorical and other strategies to lend support and authority to his positions. He seeks, and not just in this context, to limit the scope of consensus by arguing that it has been invoked falsely and far too often to rule out rival viewpoints. "It is our good fortune," he writes with biting sarcasm, "that the absolute permissibility of killing prisoners is not an agreed upon matter (*amran mujma`an `alayhi*), lest we be charged with breaching this impregnable wall – that is, the claim to consensus – which so often stands in the way of true *ijtihad* undertaken by those qualified for it and on issues that merit it" (2: 861). On occasion, he has also claimed that a putative consensus is actually based on customary practice or on considerations of the common good rather than on the foundational texts and that it can be set aside in such instances.¹⁴³ A related strategy is to argue that the views he is putting forth accord with those of the ancients (*al-mutaqaddimun*) and that it is the less authentic and therefore less authoritative latter-day scholars (*al-muta'akhhirun*) who have held a different, albeit now dominant, position (cf. 1: 239). Yet another strategy is to assert that "the truth (*al-haqq*) is not known by way of people [that is, through recourse to earlier authorities] but rather by proof (*al-dalil*); whoever has stronger proof merits preference and precedence" (1: 233). This brings us back to his Salafi view that what matters is decisive evidence from the foundational texts rather than the positions held by every Tom, Dick, and Harry. As he puts it on another occasion, "knowledge of Islam's position . . . is not determined by our wishes and feelings, or merely by our views and thoughts, or merely by transmitting from such and such of the `ulama. It is determined . . . rather on the basis of unambiguous Qur'anic texts and what the authentic normative example of the Prophet has made clear" (1: 455).

Yet there is an unmistakable tension here between instructing his audiences not to be guided merely by the views of this or that scholar and expecting his own readers to do precisely that when *he* articulates certain views for them. He would not, of course, see it this way but insist, rather, that the views he is laying out should be deemed authoritative because they have decisive proofs from the foundational texts to back them up. Such proofs are neither self-evident nor always forthcoming, however, as seen in Qaradawi's discourses on the legitimacy

¹⁴² Ibn al-Amir al-San`ani, "Bahth fi qital al-kuffar," in *Dhakha'ir*, 163; Qaradawi, *Fiqh al-jihad*, 2: 1215.

The commentary in question is al-Hasan b. Ahmad al-Jalal's *Daw al-nahar*. San`ani himself wrote a gloss on this commentary. For the relevant passages in this commentary and San`ani's gloss on it, see al-Hasan b. Ahmad al-Jalal, *Daw al-nahar al-mushriq `ala safahat al-azhar*, 4 vols. (San`a: Majlis al-qada al-a'la, 1981), 4: 2504–6; cf. *ibid.*, 1: 363.

¹⁴³ See Qaradawi, *Fiqh al-jihad*, 3rd ed., 2: 1041–2. This passage does not occur in the first edition (cf. *Fiqh al-jihad*, 1st ed., 2: 949–50).

of Palestinian suicide bombings. Nor is it obvious how the views of a Shaybani or a Jassas on self-destructive military maneuvers can be seamlessly extended to contemporary suicide bombing, or for that matter, why this practice can be resorted to in some locales but not in others. In such instances, a strong claim to authority is assumed so that *his* outlining, say, the proper sphere of suicide bombing suffices to determine its parameters. But what exactly does this authority rest on? Is there more to it than, say, a lifetime of reflecting on the foundational texts, preaching, and writing – which presumably is what a number of rival scholars would also be able to claim for themselves, to sometimes very different ends?

Qaradawi is scarcely indifferent to such questions, and there are at least two ways in which he may be seen as implicitly addressing them. First, a massive work like the *Jurisprudence of Jihad* represents not just an effort to articulate authoritative views on this contentious subject but also a sustained argument for the prerogative to do so. The book can be read as a demonstration of what it means to combine a mastery of the scholarly tradition with an understanding of modern life and why its author, *the imam* Yusuf al-Qaradawi, has earned the privilege of speaking authoritatively to his multiple audiences. The vaunted ability to address them all in a way that purports to be reasoned, attentive to people's changing interests and needs, informed by the scholarly tradition, and anchored in the foundational texts is a large part of the authority Qaradawi claims here.

The second way of addressing the problem of authority in this context is through its institutionalization. He gestures in this direction toward the end of his aforementioned fatwa on suicide bombing. In the *Jurisprudence of Jihad*, he goes on to call for an Islamic Security Council (1: 442) as well as an International Islamic Court of Justice (2: 978–80), which would draw its members from leading scholars knowledgeable in the shari`a and its overarching purposes (maqasid) besides being well-versed in contemporary developments. With such institutions, the umma's resources would be made once again to flow in an orderly manner toward a specific goal, akin to a river taking its clearly marked course, as he puts it elsewhere, rather than to a raging flood that inundates everything in sight (1: 563). By the same token, such institutions would help curtail the threat of people taking up arms at their own initiative in the misguided belief that jihad had become an individual obligation and that they were required to act as they thought best (cf. 1: 109–14).

In practice, of course, such institutional forums as exist have not curbed militant radicalism. Qaradawi's European Council for Fatwa and Research and the International Union of Muslim Scholars have not taken a clear stand on such matters. Nor does the membership in the `Ulama Union of someone like Jalal al-din Haqqani, the leader of the neo-Taliban "Haqqani network" notorious for carrying out suicide bombings on both sides of the Pakistan-Afghanistan border, suggest its suitability for this task. For their part, the Deobandi-led forums debating violence have stopped short of clearly denouncing suicide bombing, and a few participants

at the 2004 meeting of the Indian Fiqh Academy even took positions in favor of such practices.

To say that such forums are not of one mind in opposition to violence is hardly to suggest, of course, that they are agreed in favor of it. Even when people of a liberal modernist bent are excluded from the `Ulama Union (see Chapter 5), there seems to be little prospect that its several hundred members, drawn from varied societies and backgrounds, would be able to forge any substantive agreement on major issues. In an age of fractured views,¹⁴⁴ of fragmented authority, these forums represent the aspiration to forge a new consensus among the `ulama and like-minded religious intellectuals. But it is the persistent disagreements among their ranks that often end up getting highlighted.

Although some would lament this lack of agreement, not all do so, seeing it instead as an invitation to ongoing debate. As has been observed, the publication of the detailed proceedings of the Indian Fiqh Academy's seminars is intended not simply to record the positions taken by the participants but also to inform further debate on them. On occasion, this approach comes close to abdicating responsibility for taking clearer positions. At the Fiqh Academy's 2003 conference on the "purposes of the shari'a," someone had asked a question about suicide bombing, presumably to clarify how to think about it with reference to the shari'a's putative goals of safeguarding life, property, progeny, intellect, and religion. In response, an unnamed scholar is reported in the conference proceedings to have said: "There are detailed writings on this issue by Dr. Wahba al-Zuhayli, Dr. Yusuf al-Qaradawi, and Shaykh [Muhammad `Ali] Taskhiri. Some fiqh academies also have rulings on it. You ought to consult [all] these."¹⁴⁵ A striking thing about this answer is that Zuhayli, Qaradawi, and Taskhiri do not, in fact, agree on the question of suicide bombing. Whereas the latter two have argued for its legitimacy in the case of the Palestinians, Zuhayli has argued against it, albeit in general and rather vague terms.¹⁴⁶ Referring the questioner to the writings of all three would, by itself, hardly settle the issue. The leaders of the Fiqh Academy would see this not as an abdication of their responsibility, however, but rather as a return to the venerable realm of *ikhhtilaf*, the arena of legitimate juridical disagreement among scholars, and a call to continuing the debate on the question.

Qaradawi's *Jurisprudence of Jihad* should be seen in a similar light. He intends it, of course, as an authoritative engagement with the Islamic tradition on jihad. Yet the tensions and contradictions that run through the book make it amenable to being read in fragments, or at least differently by different people. (The long list of those for whom Qaradawi says it is intended may itself signal this recognition

¹⁴⁴ Cf. Daniel T. Rodgers, *Age of Fracture* (Cambridge: Harvard University Press, 2011).

¹⁴⁵ Islamic Fiqh Academy, *Maqasid-i shari`at*, 318. The person asking the question was a religious scholar named `Ubayd Iqbal `Asim; the respondent is not identified.

¹⁴⁶ Zuhayli, "al-Irhab," in *al-Irhab*, 101. Cf. his interpretation of Q 2.195, which he reads as a permission for self-defense (*ibid.*, 107).

to some degree.) He is keen to refute those who would declare war on the entire world, yet his own views are anchored in a Manichaean imaginary premised on the conviction that Islam and Muslims are under assault from much of the rest of the world. His effort to curb radical militancy in the name of Islam is accompanied by his acceptance of the legitimacy of suicide bombings. And even as these actions are seen as restricted to the Israeli-Palestinian conflict, no serious effort is made to account for this restriction, which leaves the door dangerously ajar for others to find justifications for it in their own particular contexts. Such tensions call for clarification, though this may not always be forthcoming. They also generate public debate and contestation. As observed earlier, there are limits to how much debate Qaradawi would like to see on particular issues. Significantly, however, contestation and robust claims to individual or institutional authority are not necessarily mutually exclusive, nor are they seen as such in Qaradawi's circles. One telling indication of this came from the `Ulama Union itself, which, shortly after the publication of the *Jurisprudence of Jihad*, reported that the Egyptian minister of religious affairs had made the book required reading for those being trained as mosque leaders by the Azhar. With obvious satisfaction, it added, "the book has generated widespread controversy (*jadal wasi`*) among varied Islamic trends, especially on account of its reexamination of the philosophy and understandings of jihad, which have been subject to much distortion in recent times."¹⁴⁷ Put differently, though Qaradawi and his admirers have no doubt that the right way of thinking about jihad in the contemporary world has now been elucidated in this book, there is also a recognition that it is only through public debate that people would come round to it. Yet precisely because the work has its claims to authority, the assumption is that it will not merely provoke debate but also guide that debate along particular paths – affirming, in the process, its own authority as well as that of the positions it endorses.

¹⁴⁷ al-Sayyid Zayid, "Tadris Fiqh al-jihad li-a'immat al-Azhar," http://www.iuonline.net/index.php?option=com_content&view=article&id=724:-q-q-& (dated October 11, 2009; accessed March 15, 2011).



Epilogue: The Paradoxes of Internal Criticism

THIS BOOK HAS EXAMINED SOME OF THE WAYS IN WHICH ISLAMIC thought, practices, and institutions are debated and critiqued by the `ulama in the modern world. I have studied only a fraction of these debates here, but even this small sample should provide us with a sense of the range of issues – the authority of consensus, the refashioning of legal norms, discourses on the common good, education, the position of women, socioeconomic justice, violence and terrorism – that have often been taken up for commentary and critique. At its broadest, the significance of these debates lies in illuminating the sort of intellectual ferment that exists in the Muslim public and religious spheres and specifically in the ranks of the `ulama. But they also tell us much about how particular issues are tackled, the ways in which their varied contexts shape and constrain these debates, how they are informed by a scholarly tradition that is itself in the process of reconstitution, and how authority is both contested and claimed in this unstable milieu.

In studying facets of Islamic reformist thought, I have frequently drawn attention to the idiom and the rhetorical language in which particular arguments are couched. This raises the question of the relationship between the rhetoric of reform and its content. It also poses the problem of the tangible influence of reformist thought, of course, though the latter question requires a different, empirical, examination, and it has had to be left aside here. What of the tension and the gap between rhetoric and substance, then? Qaradawi, for one, is often far more accommodating of the agreed-upon norms of the medieval jurists than his putative effort to limit the scope of consensus to the “constants of the community” would suggest. For his part, Anwarshah Kashmiri was unusual among Deobandis of his age in the early twentieth century in the degree of his openness to possibilities of *ijtihad*. Yet there is little clear indication in his writings of any substantive issues on which he proposed it. And Rashid Rida’s thoroughgoing critique of his fellow `ulama scarcely precluded unacknowledged agreement with them on many important matters.

To observe the distance between rhetoric and substance is not, however, to suggest that the work of our internal critics is “mere” rhetoric. For rhetoric, too, can motivate people to action and, in any case, many of the positions espoused by these critics do, indeed, have far-reaching practical implications. Rida’s appeal to *maslaha*, the common good, in interpreting the foundational texts goes well beyond anything most medieval jurists allowed. The point here is not to determine

whether his was a “legitimate” use of a juridical mechanism but rather that he was often willing to invoke and deploy it with full force. Sindhi’s insistence on the need to take local contexts seriously was an invitation to fellow `ulama to rethink legal norms in light of their particular circumstances. The Indian Fiqh Academy has ventured beyond the confines of the predominant Hanafi school of law in appealing to the purposes of the shari`a and in proposing important changes in the legal rights of women to enter into a marriage of their own accord. And Qaradawi has gone further than other leading `ulama of his age in systematically critiquing the worldview of the militant Islamists.

As with the question of rhetoric, it is tempting, and not particularly difficult, to dismiss internal criticism by pointing to the ambiguities and contradictions that are to be found in and around it. The fact that Qaradawi continues to defend polygamy more than sixty years after Rida had done so would seem to cast a pall on his reformist thought. Nor does the modern-sounding idiom that they both employ in defense of this institution do much to reassure their female readership, as Qaradawi, for one, recognizes. To take another example, Qaradawi’s embrace of modern education goes hand in hand with his effort to heighten the sense of civilizational conflict between Islam and the West. His critique of Islamist radicalism is, for its part, accompanied by a more or less unabashed endorsement of Palestinian suicide bombing. Yet, while such contradictions remain unresolved, they do not, in and of themselves, negate all the other positions these critics represent. Qaradawi’s attempt to refute the views of the radical militants does not lose all steam in view of his position on suicide bombing. Rather, as observed earlier, the stringency of that position may well have had the effect of justifying some of his more self-consciously moderate views. Likewise, the fact that a position is intended only for a certain audience – for example, allowing a European woman convert to stay married to her non-Muslim husband or legitimizing mortgage payments so that a Muslim family living in Europe can buy a house – rather than for “everyone” may cause all sorts of difficulties in a globalized world, but it does not necessarily diminish the significance of the view in question. The ambiguities and tensions inhering in particular positions continue, meanwhile, to invite rival views. Again, this is no mere talk, for these discourses do not just reflect contours of the public sphere in which they are articulated but serve as well to shape them.

That the different views espoused by the reformist `ulama do not sit comfortably next to one another reminds us, in any case, that the latter are best seen not as systematic thinkers articulating an internally consistent philosophy but rather as activist intellectuals responding, over the course of long careers, to new and old controversies. It is also a reminder that these intellectuals have sought to appeal to multiple audiences, ranging from fellow `ulama to products of modern Western education with varied Islamic orientations of their own. The sites on which their discourses have found expression have likewise been varied, from influential

periodicals like *al-Manar* to the itinerant Sindhi's study circles to Qaradawi's fatwas and books and the various institutional loci that he and others have founded. That such multisited discourse makes for some incoherence should not be surprising. Nor should we lose sight of the seemingly obvious point that the reformist `ulama have their own understanding of how particular ideas fit together. Qaradawi, for instance, does not give any inkling of a sense of contradiction between his position on Palestinian suicide bombing, on the one hand, and his critique of the radical Islamists, on the other. The point is not that we should take these `ulama's word for the absence or presence of ambiguity and contradiction in their discourse. It is rather that *they* would not necessarily judge their oeuvre in terms of its overall coherence in the manner an outsider might wish to, nor would they always see contradiction and incoherence where others might.¹ But there also is a larger point to be made here: the reformist `ulama may be anything but oblivious to how their discourses are received in various circles, yet they seldom conform to other people's expectations of the direction in which reform ought to go. If elements of reformist thought would appeal to liberal observers, who may have their own stakes in the outcome of particular debates, some of the examples noted in the foregoing suggest that other facets of this thought would be profoundly unsettling to them. Incidentally, much the same is true of how the reformist `ulama see *liberal* thought.



INTERNAL CRITICISM IS A FRAGILE ENTERPRISE. A GOOD DEAL OF ITS tenuousness has to do, of course, with the fact that it takes on entrenched contemporary scholars. Sindhi is the harshest internal critic the Deobandis have seen in their eventful history, and many Deobandi and non-Deobandi scholars have responded in kind to his challenge. One type of response has been to castigate him for his views, to argue that he is too far removed from the `ulama's mainstream to be a credible representative of it and that he misconstrues teachings of respected earlier scholars. Examples of this approach are on full display in Mas'ud `Alam Nadwi's elaborate critique published around the time of Sindhi's death. Another response, although not without its countervailing gestures, has been to ignore his substantive views. In Sa'id Ahmad Palanpuri's five-volume commentary on Wali Allah's *Hujjat Allah al-Baligha*, Sindhi (who had written a partial Urdu commentary on this work) is cited many times in the first two volumes, but, as noted earlier, the references to him peter out in the remaining volumes – presumably an echo of some Deobandi discomfort with his being cited as an authority.² For his part, Mufti Taqi `Uthmani of Karachi's Dar al-'Ulum criticizes a fellow Deobandi, the founder of a prominent madrasa in Gujranwala in Pakistan's Punjab province,

¹ I am grateful to Megan Brankley for some insightful comments on this issue of coherence.

² See Chapter 7, n. 112.

for having written a book in defense of Sindhi.³ A striking combination of such responses to the challenge of a menacing critic is found in an essay written by the influential Deobandi scholar and political leader Husayn Ahmad Madani shortly after Sindhi's death. Even as he lauds Sindhi for his intelligence and his contributions to the Indian struggle for freedom, Madani observes that the sheer enormity of Sindhi's travails had unhinged him toward the end of his life. He concludes with "a vigorous appeal to all people of understanding, writers, and intellectuals not to form a definite opinion on any of the late Mawlana [Sindhi]'s works until they have evaluated them in light of agreed-upon Islamic principles, the essentials of religion, and the golden rules and writings relating to Sunni belief and practice. Nor should they consider any of his statements as representing the position of Shah Wali Allah, of Muhammad Qasim [Nanotawi, one of the founders of Deoband], or of the Shaykh al-Hind [i.e., Sindhi's mentor, Mahmud Hasan]."⁴ The sheer force of this statement underscores the threat Sindhi was perceived to represent to fellow Deobandis. It also puts other, potential, internal critics on notice about what the standards are by which their life and thought would be evaluated.

Qaradawi has used more moderate language than either Sindhi or Rida in critiquing fellow `ulama, but he leaves no doubt that his traditionalist colleagues are as much in need of correcting their course as are the radical Islamists. There is no dearth of Qaradawi's own critics, including those who find him either too liberal (for instance, in his opinion on mortgage in Europe or on the European woman convert) or too conservative (as in his *misyar fatwa*), or who reject his particular conclusions even when they endorse his interpretive methods, or those, especially among the more conservative `ulama, who find him lacking a consistent legal methodology. The traditional `ulama's discomfort is well illustrated by a short essay on him by Taqi `Uthmani, published as part of a two-volume *Festschrift* on the occasion of Qaradawi's seventieth birthday.⁵

As would befit the occasion, Taqi `Uthmani has much to say in praise of his subject. However, the tone of that praise is altogether lacking in enthusiasm. He commends Qaradawi for addressing issues of contemporary relevance, though the focus here is not really on his work. It is rather on his personal qualities. Taqi `Uthmani notes that he has some disagreements with Qaradawi on specific issues, but these do not seem to interest him enough to merit elaboration. Instead, he proceeds to testify to his "ideal Islamic virtues." Qaradawi is, Taqi `Uthmani writes, "a human being before he is a Muslim, an observant Muslim before he is a preacher,

³ Muhammad Taqi `Uthmani, review of `Abd al-Hamid Sawati, *Mawlana `Ubayd Allah Sindhi ke `ulum wa afkar* (Gujranwala: Nusrat al-`Ulum, n.d.), reprinted in `Uthmani, *Tabsire*, 480–93. (I have not been able to consult this book myself.) Sawati (d. 2008) was the founder and president of the Nusrat al-`Ulum madrasa in Gujranwala, Punjab. This madrasa is now headed by the aforementioned Zahid al-Rashidi.

⁴ Husayn Ahmad Madani, untitled essay on Sindhi appended to Sindhi, *Dhati Diary*, 49–50.

⁵ Taqi `Uthmani, "Fadilat al-duktur Yusuf al-Qaradawi" in *Yusuf al-Qaradawi*, 1: 77–80.

and a preacher before he is a scholar and a jurist.”⁶ This, incidentally, is the only place in the entire essay that Taqi `Uthmani explicitly refers to Qaradawi as one of the “`ulama,” rather than merely as “Dr. Qaradawi”; and yet, even here, and though he presents it as a compliment, Qaradawi’s scholarly enterprise is deemed to be the least significant thing about him. Inasmuch as Taqi `Uthmani’s essay reflects a genuine discomfort with Qaradawi, it is not difficult to account for. Some of it surely has to do with Qaradawi’s intellectual genealogy, which goes back not only to the millennium-old Azhar but also to pioneering Islamists like Hasan al-Banna, whom many `ulama have often viewed with grave misgivings. An important part of this discomfort also comes from Qaradawi’s effort to engage with the foundational texts unconstrained by the established norms of the legal tradition and to draw on that tradition in a way that is at best eclectic. His insistence on the need to transcend traditional school affiliations causes unease even among some of those who are less constricted by the school tradition than were their predecessors. It is the more discomfiting in that the appeal of Qaradawi’s carefully advertised persona as a “centrist” scholar depends on portraying many others as helplessly chained to an anachronistic tradition. Unsurprisingly, they have not been particularly friendly even when they have spared him their sharpest rejoinders.

It is not only their own reputations that contemporary scholars must protect, of course, but also those of numerous other authorities from the near and remote past. Part of what makes internal criticism a fraught exercise is precisely the challenge to such authorities. As seen in the previous chapter, Qaradawi’s rethinking of the obligation of jihad rests as much on showing contemporary militants the error of their ways as it does on critiquing named and unnamed premodern scholars. Likewise, in basing himself on Ibn Hazm’s radical prescriptions for dealing with economic inequities, Hifz al-Rahman Seoharwi implicitly rejects the views of other modern and medieval scholars on such matters. Sindhi had a poor opinion of much of the medieval exegetical tradition on the Qur’an. And Manazir Ahsan Gilani’s argument that Islamic education in medieval India could flourish with a minuscule body of core texts is not only a critique of modern madrasa education but an equally powerful questioning of the relevance – to religion and to posterity – of much in the medieval scholastic tradition.

Some of the fragility of the work of our internal critics is explicable as well in terms of their tenuous social base. Rida was a learned scholar and an influential journalist. His writings were read widely in the Muslim world, he received requests for fatwas from afar, and he had some important allies within the Azhar. Yet he was also an outsider, not only to the Azhar but to Egypt itself and, on occasion, was threatened with expulsion. Nor did he have any formal students or disciples who would carry on his work. It is telling that though some effort was made to continue *al-Manar* after his death in 1935, notably by Hasan al-Banna, it was

⁶ Ibid., 1: 80.

not long before the journal ceased publication.⁷ By contrast, Sindhi had a small team of devoted disciples. It was at their hands that many of his writings were compiled and published, and their successors have kept his work in print. Yet such disciples are no match for the countless students that leading Deobandi `ulama have produced and the madrasas with which they, in turn, have been associated. Ashraf `Ali Thanawi, the preeminent Deobandi scholar and Sufi of twentieth-century India, had disciples across South Asia, including such influential figures as Sayyid Sulayman Nadwi, a widely respected scholar of the Nadwat al-`Ulama; Muhammad Tayyib, who presided over the Deoband madrasa for several decades; and Mufti Muhammad Shafi`, the father of Taqi `Uthmani and the founder of the Dar al-`Ulum madrasa of Karachi. Leaving aside the ambiguities of his own legacy as an internal critic, much the same is true of Anwarshah Kashmiri. For his part, Husayn Ahmad Madani was not only a highly influential political figure among the Deobandis of late colonial India but also a Sufi master with disciples that almost rivaled those of Thanawi. A good deal of the influence members of the Madani family have continued to exercise over Deobandi circles in India to the present day has to do with this Sufi legacy.⁸ Qaradawi, on the other hand, is reminiscent of Rashid Rida in an earlier age. As Gudrun Krämer has observed:

While millions have . . . been able to literally form an image of him, to see his face, listen to his voice, and observe his gestures, his is a peculiarly disembodied voice. Qaradawi can rely on a wide-ranging network of Islamic scholars, preachers and activists, especially from the Muslim Brotherhood, but he does not appear to have a personal following beyond the rather impersonal community of Muslim audiences all over the world.⁹

Its frailties are not all there is to internal criticism, however. In one of its many paradoxes, it also has deep roots in the tradition. The intellectual history of Islam, like any other religious tradition, has had its share of internal critics. And while internal criticism is a decidedly self-conscious enterprise, this self-consciousness itself is not a new phenomenon.¹⁰ I will limit myself here to only three examples, all encountered in the previous chapters. Ibn Hazm is one of them. The Zahiri school to which he belonged petered out at some point in medieval Islam, an outcome to which this school's uncompromising rejection of anything that could not be explicitly justified in terms of the Islamic foundational texts contributed a great deal. But the failure of his school does not diminish the challenge that Ibn Hazm had posed to fellow scholars to justify their arguments on the basis of the foundational texts and, conversely, to *allow* practices not explicitly forbidden by

⁷ In this instance, the Egyptian government, too, had a role, for it was not keen to see the Muslim Brotherhood take over this journal. See Hasan al-Banna, *Mudhakkirat al-da`wa wa'l-da`iya* (Cairo: Dar al-kitab al-`Arabi, n.d.), 272–4; Mitchell, *The Society of the Muslim Brothers*, 186.

⁸ I owe this point to Waris Mazhari.

⁹ Krämer, "Drawing Boundaries," 193.

¹⁰ Cf. Walzer, *Company of Critics*, 4–5.

those texts. Ibn Hazm's approach has attracted much criticism, not least in the contemporary era from Qaradawi, who sees him as the embodiment of a rigid literalism indifferent to the larger purposes of the shari`a.¹¹ But he has also had his defenders and, as seen in the case of Seoharwi, he has had a profound influence on some modern scholars. Qaradawi, too, draws on him when it suits him.

Ibn Taymiyya is another example. Unlike Ibn Hazm, he worked within the framework of a well-established school of law, the Hanbali madhhab, which has continued to exist into the present. It is true that Ibn Taymiyya was a highly controversial figure in his own age and, as Khaled El-Rouayheb has argued, a rather marginal one for several centuries after his death. It is only since the late nineteenth and the early twentieth centuries that he has come to acquire an unprecedented prominence in Muslim societies, thanks, in part, to the efforts of people like Rashid Rida.¹² But if the controversies that he provoked were extremely distasteful to fellow scholars, they testify, by the same token, to the challenge he had represented to many aspects of the received tradition. Some of the positions he held now exercise considerable appeal in particular circles. Radical Islamists have appealed to him in justifying rebellion against a putatively Muslim ruler.¹³ By contrast, Qaradawi invokes him in support of the idea that unbelievers are to be left alone if they do not pose a direct threat to Muslims. In a work on "anomalous fatwas," Qaradawi also makes the point that fatwas that seem errant when first delivered are not necessarily wrong, and he adduces some opinions of Ibn Taymiyya to show how fatwas deemed questionable in their own age have sometimes come to be rehabilitated by later generations.¹⁴ But it is not just among Salafis of different orientations that Ibn

¹¹ Yusuf al-Qaradawi, *al-Fatawa al-shadhha* (Cairo: Dar al-shuruq, 2010), 15–16.

¹² Khaled El-Rouayheb, "From Ibn Hajar al-Haytami (d. 1566) to Khayr al-Din al-Alusi (d. 1899): Changing Views of Ibn Taymiyya among non-Hanbali Sunni Scholars," in Yossef Rapoport and Shahab Ahmed, ed., *Ibn Taymiyya and His Times* (Karachi: Oxford University Press, 2010), 269–318, esp. 311.

¹³ See, for instance, Muhammad `Abd al-Salam Faraj, *al-Farida al-gha'iba* (N.p., n.d. [ca. 1990]). This work, written by an electrical engineer executed for his role in the assassination of Egyptian president Anwar al-Sadat (d. 1981), draws extensively on Ibn Taymiyya. On his appropriation of Ibn Taymiyya, see Mona Hassan, "Modern Interpretations and Misinterpretations of a Medieval Scholar: Apprehending the Political Thought of Ibn Taymiyya," in Rapoport and Ahmed, eds., *Ibn Taymiyya*, 355–9.

¹⁴ Qaradawi, *al-Fatawa al-shadhha*, 98–100. He refers here to Ibn Taymiyya's view that the so-called triple divorce – wherein a man declares his wife divorced three times in a single sitting – counts only as *one* of the three times the husband must repeat that formula. The common view of the medieval Sunni jurists was that the triple divorce, even when uttered at the same time rather than over the course of several sittings, resulted in the irrevocable end of the marriage. Modern Muslim legislators have tended to favor Ibn Taymiyya's view in order to check divorces that result from nothing better than an emotional outburst. Qaradawi also refers to Ibn Taymiyya's view – again popular in many Muslim circles today – that the divorce formula uttered by a person who is drunk or in a rage does not take effect. For a discussion of Ibn Taymiyya's ideas on divorce, see Yossef Rapoport, *Marriage, Money and Divorce in Medieval Islamic Society* (Cambridge: Cambridge University Press, 2005), 96–110. I am grateful to Michael Cook for drawing my attention to this work.

Taymiyya is popular. Even Anwarshah Kashmiri refers to him, and not always by way of disagreement.¹⁵

Wali Allah's work offers what in some ways is an even more illustrative instance of the historical depth of internal criticism in Islamic thought. In marked contrast with the long-standing commitment to taqlid among South Asian `ulama both before and after his time, Wali Allah had underscored the necessity, and continuing possibilities, of ijthad. In a predominantly Hanafi region, he had shown a marked proclivity for Shaf'i law, though without abandoning Hanafism. Notwithstanding the six collections of hadith most Sunnis recognized as canonical, he had argued that the *Muwatta* of Malik b. Anas, an eighth-century compendium of legal norms originating in Medina, was the most authoritative work after the Qur'an; and he had proceeded to write two commentaries on this work, one in Arabic and the other in Persian. Not content to offer such explicit and implicit challenges to the canon of religious knowledge and its gatekeepers in his milieu, he had launched on a searing critique of fellow Sufis and the jurists. In his *Tafhimat al-ilahiyya*, he castigates the Sufis for "abandoning the path that God had revealed through Muhammad as a mercy, kindness, and guidance for people, with each [Sufi master] setting himself up as an imam . . . and claiming to be a righteous guide when, in fact, he is misguided himself and leads others astray."¹⁶ He was equally harsh in his critique of fellow jurists, accusing them, as would Rashid Rida and other Salafis of a later age, of preferring their school doctrines over sound hadith reports.¹⁷ On top of all this, he was unusually blunt as well in his criticism of the military and the political elite of his time.

Wali Allah's views have not failed to create some discomfort among succeeding generations of scholars. But few have ventured to criticize him very much, and he is that rare figure in modern South Asian Islam who is claimed by the Salafis, the Deobandis, and the modernists. Following a time-honored pattern, different groups have sought to sanitize his legacy to fit their own purposes, emphasizing particular facets of his thought to the neglect of others. Part of `Ubayd Allah Sindhi's challenge to his contemporary `ulama lay precisely in bringing out aspects of Wali Allah's work that they would rather have forgotten about. And although there are legitimate questions about the liberties Sindhi takes with his ideas, not everyone among the `ulama agrees that the tenor of Sindhi's thought is necessarily untrue to Wali Allah's. Conversely, those critical of *Sindhi's* interpretations have not always shied away from Wali Allah's stance as an internal critic. In a book written some years before the partition of the Indian subcontinent, Manazir Ahsan Gilani provides long extracts, in Urdu translation, from Wali Allah's foregoing critique. The point of doing so, he says, is not only to understand how far Muslims had

¹⁵ For examples of agreement, see Kashmiri, *al-`Arf al-shadhi*, 1: 543; 2: 66; 3: 154–5; 4: 35. For disagreements, *ibid.*, 1: 590; 2: 125–8, 131, 373–4.

¹⁶ Wali Allah, *al-Tafhimat*, 1: 271–6, 282, 284; quotation at 282.

¹⁷ *Ibid.*, 1: 276–9. For the full text of this critique, see *ibid.*, 1: 266–88. See also Chapter 7.

declined in his – Wali Allah’s – age and to understand his reformist vision in that context. It is also meant as “a corrective to those who consider his works to be limited to debates relating to the Hanafis and the Shafi`is, to taqlid and its rejection, and to Sufism and theology.”¹⁸ In scholarly circles, these, of course, are far from inconsequential matters. But Gilani’s point is that Wali Allah was concerned with society at large, not just with scholastic matters, and it is this social criticism that Gilani sought to restore to view. Though Wali Allah is not embraced by most `ulama as an internal critic, the veneration he enjoys among them serves nonetheless to give internal criticism a respectable genealogy. And it remains possible for a Sindhi or a Gilani to strategically invoke and reclaim that genealogy. On occasion, other scholars have weighed in, too. Sayyid Fakhr al-din Ahmad Muradabadi (d. 1972), a student of Anwarshah Kashmiri and, for several decades, a professor of hadith and then head professor at Deoband, put it this way in 1966, in his presidential address to India’s Jam`iyyat al-`Ulama: “Consider the topics [addressed in] the *Tafhimat* of Shah Wali Allah, the founder of ideas of revolution. A laborer of this present age . . . would probably not be able to say tougher things against the capitalist than what Wali Allah has written against the rulers and notables of his age.”¹⁹ Sindhi would have found himself in very good company, this time in the heart of Deoband.



THAT SOME OF THE FIGURES INVOKED BY OUR INTERNAL CRITICS ENJOY considerable influence in Muslim scholarly and other circles points to yet another paradox. It reminds us that, just as internal criticism has roots in the tradition that are shared with other discourses, its oppositional character, though far from illusory, should not be exaggerated either.²⁰ For one thing, the fact that Sindhi was willing to join hands with an Afghan king in his early anti-colonial ventures, that Rida, in his later years, received some financial support from Ibn Sa`ud of Arabia, and that Qaradawi has spent decades living under the patronage of the royal family of Qatar suggests, at the very least, that these intellectuals have not been opposed to all forms of constituted authority. Rather, there is a great deal of pragmatism in how they have picked and prosecuted their battles. Much the same is true of the generality of the `ulama. Second, the oppositional stance of the internal critics toward other `ulama is frequently itself a carefully calibrated one. For all his unconventional views on some issues, Anwarshah Kashmiri was a pillar of the Deobandi establishment – at least as long as he was at the Deoband madrasa.²¹

¹⁸ Gilani, *Tadhkira*, 100. For Gilani’s translation of the passages from Wali Allah’s *Tafhimat*, *ibid.*, 87–100. Also see *ibid.*, 115–18, for a criticism of some of Sindhi’s views, though without naming him.

¹⁹ Kamal, ed., *Jam`iyyat `Ulama-i Hind*, 387. For the full text of Muradabadi’s speech, see *ibid.*, 371–418. For a brief biographical note on him, see Fuyud al-Rahman, *Mashahir*, 1: 393–4.

²⁰ Cf. Walzer, *Company of Critics*, 237–8.

²¹ After he broke with the madrasa, however, the rift would not be healed even in death. Although he had returned to the town of Deoband sometime before his death, he would be buried not in the hallowed cemetery housing Deobandi luminaries such as Muhammad Qasim Nanotawi,

Manazir Ahsan Gilani long remained part of the Deoband madrasa's advisory council. And Hifz al-Rahman Seoharwi was, for many years, the general secretary of the Deobandi `ulama's premier religiopolitical organization, the Jam`iyyat al-`Ulama-i Hind. Though a harsh critic of al-Azhar and of many of its `ulama, Rida was closely allied with some influential Azharis, among them the promising reformer Mustafa al-Maraghi. Qaradawi, for his part, has tempered his criticism of `ulama with efforts to forge alliances with many of them as well as between them and other activists and intellectuals. And the Indian Fiqh Academy has been keen to maintain its ties with the Deobandis and to showcase the association with it of prominent scholars.

On occasion, Qaradawi has criticized and embraced the very same figures. In the aforementioned book on anomalous fatwas, Qaradawi discusses at some length the fatwa that the Azhar's Academy of Islamic Research had issued in 2002 in favor of financial interest. This discussion is intended to underscore the point that the formal religious standing of an institution does not necessarily make for a legitimate pronouncement and, in this instance, the academy's fatwa is clearly deviant.²² In critiquing the fatwa, Qaradawi notes that it is opposed to the juridical opinions issued by a number of other fiqh organizations, including the fiqh academies of the Organization of Islamic Conference and the Muslim World League, the Islamic Fiqh Academy of India and – eliding its controversial position on mortgage – the European Council for Fatwa and Research.²³ He also observes that the signatories to the fatwa were not scholars of Islamic law:

As is known, the Academy of Research comprises members with different kinds of education. Some are linguists, others professors of literature and literary criticism, lawyers, economists, doctors, and engineers. As for the shari'a scholars among them, few are scholars [specifically] of Islamic law and [capable of issuing] fatwas. Rather, some are scholars of theology and philosophy, some of exegesis, some of hadith, and some of [matters relating to] proselytism.²⁴

It is worth noting that the current rector of al-Azhar, Ahmad al-Tayyib, was then professor of theology and philosophy at the Azhar as well as Egypt's Grand Mufti. Although Tayyib does not come across very well here, the real target was Muhammad Sayyid Tantawi, then the rector of al-Azhar. As Qaradawi sees it, it was Tantawi who had wanted the academy to issue the fatwa in question in order to lend support to an earlier fatwa of his own in the same vein (see [Chapter 4](#)). Qaradawi had sparred publicly with Tantawi on a number of occasions, and this

Mahmud Hasan, `Aziz al-Rahman (Deoband's first mufti), and later, Husayn Ahmad Madani, but in a graveyard all his own. Kashmiri's sons and some other family members are now also buried in this graveyard.

²² Qaradawi, *al-Fatawa al-shadhdha*, 67–76.

²³ *Ibid.*, 67.

²⁴ *Ibid.*, 72.

was another opportunity to try to cut him down to size. But when Tantawi died in 2010, it was Tayyib who was appointed by President Hosni Mubarak as the Shaykh al-Azhar. This may have been slightly uncomfortable for Qaradawi, whose book on anomalous fatwas was published that same year. In some of his statements in the aftermath of Mubarak's fall, in which Qaradawi, too, played a role, he would try to mend fences with the new rector. Asked by an interviewer to comment on the role of the Azhar in combating extremism, Qaradawi first laments the political subservience of this and other religious institutions in the Arab world, with the result that they have "lost much of the Muslim peoples' trust in them." He then notes the Azhar's obligation "to stand up for its centrist role" and continues, without any trace of irony or sarcasm, "this is what our friend, the great imam and Shaykh al-Azhar, Dr. Ahmad al-Tayyib, is striving for – may God enable him to do so!"²⁵

Whether we see it as paradox, opportunism, pragmatism, or as something else, internal critics seldom burn all bridges with fellow `ulama.²⁶ The implications of a *tempered* oppositional stance vis-à-vis the other `ulama are not far to seek. It enables the critics to build strategic alliances with, and to seek support among, the very people who are the object of the critique. But it also allows the critics to partake of some of the authority that resides in the scholarly community at large. An instructive example relates to Rida's last book, *al-Wahy al-Muhammadi* ("The Muhammadan Revelation"), first published in 1933, about two years before his death. Reminiscent of what he had been led to believe in composing his *Call to the Fair Sex*, Rida thought that *al-Wahy's* reasoned explication of Islam, its effort to muster proofs, against Western objections, that the Qur'an was the word of God, and its demonstration of why Islam was eminently suited to contemporary needs would pave the way to widespread conversion in

²⁵ `Ala al-Ghitri, "al-Qaradawi: Ashab al-fatawa al-mudallila yatabajjahun ka-annahum sunna` al-thawra raghm mawqifihim al-makhzi," *al-Misri al-yawm*, April 4, 2011. Later still, there was a very public falling out after Qaradawi criticized Tayyib for his erstwhile support for the Mubarak regime, which, in turn, called forth a severe response on behalf of the Shaykh al-Azhar. For Qaradawi's interview that provoked this controversy and the subsequent exchanges, see `Imad al-din Husayn, Muhammad Sa'd `Abd al-Hafiz and Khalid Musa, "al-Qaradawi lil-*Shuruq*: al-Shar'iyya lil-barlaman faqat," *al-Shuruq*, February 15, 2012 (<http://www.shorouknews.com/news/view.aspx?cdate=15022012&id=36209e08-1dde-4588-95a6-1d99b50677eb> [accessed February 21, 2012]); "Bayan sakhin lil-Azhar yaruddu `ala hiwar al-shaykh al-Qaradawi," *ibid.*, February 21, 2012 (<http://www.shorouknews.com/news/view.aspx?cdate=21022012&id=a4foaf53-e733-418a-996a-8414e536ff02> [accessed February 21, 2012]); `Isam Talimah, "Tajawaztum fi haqq al-Azhar," *ibid.*, February 26, 2012 (<http://www.shorouknews.com/columns/view.aspx?cdate=26022012&id=00ca62ce-b41b-470d-a443-22b1df16340b> [accessed February 26, 2012]). I am grateful to Amr Osman for drawing these articles to my attention.

²⁶ Even in the wake of the bruising exchange mentioned in the previous note, Qaradawi and the Shaykh al-Azhar remained in touch. When the latter's brother-in-law died shortly afterwards, Qaradawi was reported to have telephoned him to express his condolences (<http://www.qaradawi.net/news/5671-2012-03-18-08-30-09.html> [accessed March 30, 2012]).

Western societies.²⁷ Never lacking in self-confidence, Rida was unrestrained in highlighting his own intellectual endowments. He quoted an unnamed commentator as remarking, in a play on the title, that the book itself is “of divine inspiration rather than [the product of] its author’s acquired knowledge.”²⁸ But he was especially pleased with the aforementioned Mustafa al-Maraghi’s lavish praise for the book: “You have been enabled [by God] to create a new opening for calling people to the true Islamic faith,” Maraghi had written to Rida. “For you have presented the gist of it from its pure sources . . . and you have brought together religion and [worldly] knowledge in a manner that none other than the [truly] believing `ulama can manage.”²⁹ Maraghi’s appointment in 1935 as the rector of al-Azhar suggested possibilities to Rida not only for the reform of this institution but also for the promotion of his own book. In the preface to the third edition, published that same year, he observed that no translation of this book would enjoy the kind of universal “trust” that one endorsed by the head of the Azhar did.³⁰ Although obviously intended as a compliment to Maraghi, this remark is also an illustration of Rida’s conflicted sense of the Azhar’s importance. He, too, could not quite do without it. Mitchell-Innes, the under-secretary of state for finance, had underscored this point to him more than a quarter century earlier when he had promised that he would become a Muslim if the *Azhar* `ulama endorsed Rida’s *maslaha*-based understanding of Islam.³¹

Internal critics are not the only people who find it expedient to retain some of their ties with other `ulama. The latter, too, may have an interest in not severing all relations with the critics among them or, for that matter, with rival intellectuals well outside their own circles. In an age in which the `ulama have faced searing criticism from many quarters, their internal critics serve not only to awaken them to the challenges they face but also, intentionally or unwittingly, to assure others that the work of internal reconstruction is in progress. It is possible that such assurances end up taking the wind out of the reformists’ own sails. They could very well reinforce conservative assertions that the only people qualified to talk about Islamic reform are the `ulama, that this should be an in-house project, that they ought to be left to their own devices and allowed to proceed at their own pace, and crucially, that the “right kind” of `ulama should oversee all this. It is not only the discourses of many Deobandis but also some of the statements of Qaradawi’s International Union of Muslim Scholars that point toward reform as an in-house project.³² Yet the house in question has come to be inhabited by many more people

²⁷ On his hopes for triggering conversions to Islam through translations of this book, see Rida, *al-Wahy*, 6; on Islam as the religion of nature, reason, knowledge, proof, and so forth, see *ibid.*, 177ff.; on the need to explain it properly to modern independent-minded people, *ibid.*, 188–9.

²⁸ *al-Manar* 34 (1934–5): 796.

²⁹ Quoted in *ibid.*, 796.

³⁰ Rida, *al-Wahy al-Muhammadi*, 5.

³¹ See Chapter 4, n. 22.

³² See Chapter 5, n. 45.

than would conventionally be recognized as `ulama. Nor is there any indication, in the `Ulama Union or anywhere else, that the substance or rhetoric of internal criticism has saved the `ulama from further criticism. What it has done rather is to broaden the arena of debate and, by the same token, to continue to test the boundaries of the religious tradition that is both the subject of this debate and the ground on which it takes place.

Bibliography

The Arabic definite article *al-* is usually ignored in listing proper names and book titles. Thus, al-Ghazali would be found under G rather than under A. Publication dates in the Islamic *hijri* calendar have been converted to the Gregorian calendar. A two-year range is sometimes given, however, to signal the overlap of the hijri year with two years in the corresponding Christian calendar (e.g., the hijri year 1341 begins in August 1922, hence my giving the Gregorian year 1922–3 as its equivalent).

ARCHIVES

The National Archives (TNA), Public Records Office, Kew

FO 882: Arab Bureau Papers, 1911–1920. Microfilm. Nendeln, Liechtenstein: Kraus-Thomson Organization in cooperation with the Public Record Office, London and H.M. Stationery Office, London, 1973.

FO 686/149: Silk Letters Case.

Confidential Print: Middle East (electronic resource) http://www.archivesdirect.amdigital.co.uk/Introduction/Confidential_Print/default.aspx#MiddleEast

Foreign Office Files for India, Pakistan and Afghanistan (electronic resource) http://www.archivesdirect.amdigital.co.uk/Introduction/FO_India/default.aspx

Oriental and India Office Collections (OIOC), British Library, London

Indian Newspaper Reports, c1868–1942, from the British Library, London. Microform. Marlborough: Adam Matthew Publications Ltd, 2005–.

Indian Political Intelligence Files (IPI), 1912–1950. Oriental and India Office Collections, the British Library, London. Microfiche. Ed. A. J. Farrington. Leiden: IDC, 2000.

World Newspaper Archive. <http://infoweb.newsbank.com/?db=WHNPX>

PUBLISHED DOCUMENTS

Burdett, A. L. P. Ed. *Arab Dissident Movements 1905–1955*. 4 vols. London: Archive Editions, 1996.

Communism in India [by] Sir Cecil Kaye, with Unpublished Documents from National Archives of India (1919–1924). Compiled and edited by Subodh Roy. Calcutta: Editions Indian, 1971.

Government of India. *Social, Economic and Educational Status of the Muslim Community of India: A Report*. Delhi: Prime Minister's High Level Committee, Cabinet Secretariat, Government of India, 2006. Reprinted by Indian Muslim Council, USA, n.d.

Jarman, Robert L. Ed. *The Jeddah Diaries, 1919–1940*. 4 vols. London: Archive Editions, 1990.

- Kamal, Radi Ahmad. Ed. *Jam`iyyat `Ulama-i Hind: Dastawizat-i markazi ijlasha-i `amm, 1948–2003*. Delhi: Shu`ba-i nashr wa isha`at, Jam`iyyat `Ulama-i Hind, 2004.
- Muhammad, Shan. Ed. *The Aligarh Movement: Basic Documents, 1864–1898*. 2 vols. Delhi: Meenakshi Prakashan, 1978.
- . *The Indian Muslims: A Documentary Record, 1900–1947*. 10 vols. Delhi: Meenakshi Prakashan, 1980–.
- Petrie, David. *Communism in India 1924–1927*. Calcutta: Government of India Press, 1927. In L/P&J/12/668 (IPI-6). Edited (with original pagination) by Mahadevprasad Saha. Calcutta: Editions Indian, 1972.
- Priestland, Jane. Ed. *Records of Islam, 1908–1972: British Documentary Sources*. 12 vols. London: Archive Editions, 2004.
- Rabitat al-`alam al-Islami. *Qararat al-majma` al-fiqhi al-Islami bi-Makka al-mukarrama, al-dawrat min al-ula ila al-sadisa `ashara . . . 1977–2002*. N.p., n.d. (ca. 2002).
- Rowlatt, S. A. T. *Sedition Committee 1918 Report*. Calcutta: Superintendent Government Printing, 1919.
- Rozina, Parvin. Ed. *Jam`iyyat al-`Ulama-i Hind: Dastawizat-i markazi ijlasha-i `amm*. 2 vols. Islamabad: National Institute of Historical and Cultural Research, 1980.
- South Asia Ephemera Collection. Library of Congress Office, India:
- I-CLR-439.1: Jami`at-i Ulama-i Hind, New Delhi, India Publications, Part 1.
- I-CLR 84.8: Islam in India, part 8: 1954–2003.
- Wikileaks: *Pakistan Papers*. <http://www.Dawn.com>

OTHER PUBLISHED WORKS

- `Abd al-Haqq et al. *Fatawa Haqqaniyya*. Ed. Mukhtar Allah Haqqani. 6 vols. Akora Khattak: Jami`a Haqqaniyya, 2002.
- `Abd al-Hayy [Laknawi] (d. 1886). *Majmu`a-i fatawa-i Mawlana `Abd al-Hayy*. Translated into Urdu by Khurshid `Alam. Karachi: Qur`an mahall, 1964.
- `Abd al-Rahman, Sabah al-din. "Dibacha." In *Bahadur khawat-in-i Islam*, Sayyid Sulayman Nadwi, 1–40.
- `Abd al-Raziq, `Ali (d. 1966). *al-Ijma` fi'l-shari`a al-Islamiyya*. Cairo: Dar al-fikr al-`Arabi, n.d. (1947).
- . *al-Islam wa usul al-hukm*. Cairo: Shirkat musahama misriyya, 1925.
- Abdel Haleem, M. A. S. *The Qur`an: A New Translation*. Oxford: Oxford University Press, 2004.
- `Abduh, Muhammad (d. 1905). *al-Islam wa'l-nasraniyya*. Cairo: Matba`at majallat al-Manar, 1905.
- . *Tafsir al-Qur`an al-karim, juz `amma*. 3rd edition. Cairo: Matba`at Misr, 1922–3.
- Abu `Ubayd al-Qasim b. Sallam (d. 838) *Kitab al-amwal*. Ed. `Abd al-Amir `Ali Muhanna. Beirut: Dar al-hadatha, 1988.
- Abu Yusuf (d. 798). *Kitab al-kharaj*. Ed. Ihsan `Abbas. Cairo: Dar al-shuruq, 1985.
- Adams, Charles C. *Islam and Modernism in Egypt*. London: Oxford University Press, 1933.
- Agrama, Hussein Ali. "Ethics, Tradition, Authority: Toward an Anthropology of the Fatwa." *American Ethnologist* 37 (2010): 2–18.

- Ahmad, Anis. "Allama Sayyid Rashid Rida awr madrasa-i `aliya-i Deoband." *Aligarh Institute Gazette*, September 18, 1912: 10.
- Ahmad, Aziz. "An Eighteenth-Century Theory of the Caliphate," *Studia Islamica* 28 (1968): 135–44.
- . *Islamic Modernism in India and Pakistan, 1857–1964*. London: Oxford University Press, 1967.
- Ahmad, Irfan. "Cracks in the 'Mightiest Fortress': Jamaat-e-Islami's Changing Discourse on Women." *Modern Asian Studies* 42 (2008): 549–75.
- . *Islamism and Democracy in India: The Transformation of the Jamaat-e-Islami*. Princeton: Princeton University Press, 2009.
- . "Power, Purity and the Vanguard: Educational Ideology of the Jama`at-i Islami of India." In *Madrasas in South Asia: Teaching Terror?*, ed. Jamal Malik, 142–64. London: Routledge, 2008.
- Ahmad, Jamil-ud-din. Ed. *Speeches and Writings of Mr. Jinnah*. 6th edition. Lahore: Shaikh Muhammad Ashraf, 1960.
- Ahmad, Muhammad Mushtaq. *Jihad, muzahamat awr baghawat: Islami shari`at awr bayn al-aqwami qanun ki rawshani main*. Gujranwala: al-Shari`a Academy, 2008.
- Ahmad, Sayyid Muhammad. *Mawlana `Ubayd Allah Sindhi: Hayat, afkar, awr `amal*. Ed. `Amir Riyad. Lahore: Takhliqat, 2009.
- Akbarabadi, Sa`id Ahmad (1985). "Ae ke tu majmu`a-i khubi!" In *Taswir-i Anwar*, Mas`udi, 336–49.
- . *Khutbat-i Iqbal par aik nazar*. Sri Nagar: Iqbal Institute, 1983.
- . *Mawlana `Ubayd Allah Sindhi awr unke naqid*. Deoband: Maktaba-i Rahmaniyya, 1972.
- Ali, A. Yusuf. "Muslim Culture and Religious Thought." In *Modern India and the West: A Study of the Interaction of their Civilizations*, ed. L. S. S. O'Malley, 389–414. London: Oxford University Press, 1941.
- Ali, Cheragh. *The Political, Legal, and Social Reforms in the Ottoman Empire and Other Mohammadan States*. Bombay: Education Society's Press, 1883.
- Ali, Rafaqat. "FSC to Decide Riba Case Afresh: Supreme Court Sets Aside Earlier Judgement." *Dawn*, June 25, 2002.
- `Allam, Sharif. "al-Qaradawi: Nas'al Allah an yatajawaz `an Bu `Azizi." http://www.qaradawi.net/site/topics/printArticle.asp?cu_no=2&item_no=7842&version=1 (accessed January 22, 2011).
- "Allama Rashid Rida Deoband main." *Aligarh Institute Gazette*, April 24, 1912: 7–10.
- al-`Alyani, `Ali b. Nufay`. *Ahammiyyat al-jihad*. Riyadh: Dar tayba, 1995.
- al-Amidi (d. 1232). *al-Ihkam fi usul al-ahkam*. Ed. `Abd al-Mun`im Ibrahim. 4 vols. Riyadh: Maktabat Nizar Mustafa al-Baz, 2000.
- al-`Amili (al-Shahid al-thani), Zayn al-din (d. 1557). *al-Rawda al-bahiyya fi sharh al-lum`a al-Dimashqiyya*. Ed. Sayyid Muhammad Kalantar. 10 vols. 2nd edition. Tehran: al-Ma`arif al-Islamiyya, n.d.
- Alinsky, Saul. D. *Reveille for Radicals*. New York: Vintage Books, 1969.
- Anderson, Norman. *Law Reform in the Muslim World*. London: Athlone Press, 1976.
- An-Na`im, Abdullahi A. *Islamic Family Law in a Changing World: A Global Resource Book*. London: Zed Books, 2002.
- al-Ansari, `Abd al-`Ali Muhammad b. Nizam al-din (d. 1810). *Fawatih al-rahamut*, published together with al-Ghazali, *al-Mustasfa*. See Ghazali.

- Ansari, Massoud. "In the Eye of the Storm – at the Moment." *The Herald* (Karachi), August 2008: 30–2.
- Ansari, Sarah. *Sufi Saints and State Power: The Pirs of Sind, 1843–1947*. Cambridge: Cambridge University Press, 1992.
- al-Aqalliyat al-muslima*. Medina: Permanent Committee for Islamic Research and Fatwas, n.d.
- Arberry, A. J. *The Koran Interpreted*. 2 vols. New York: Touchstone, 1996.
- Arendt, Hannah. "What was Authority?" *Authority*, ed. Carl J. Friedrich, 81–112. Westport: Greenwood Press, 1981.
- Arslan, Shakib (d. 1946). *al-Sayyid Rashid Rida aw ikha arba`in sana*. Damascus: Matba`at Ibn Zaydun, 1937.
- Asad, Haleem. "Militants Force Girl to Wear Suicide Jacket." *Dawn*, June 21, 2011.
- Asad, Talal. *Formations of the Secular: Christianity, Islam, Modernity*. Stanford: Stanford University Press, 2003.
- . *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam*. Baltimore: The Johns Hopkins University Press, 1993.
- . *On Suicide Bombing*. New York: Columbia University Press, 2007.
- Asad, Talal, Wendy Brown, Judith Butler, and Saba Mahmood. *Is Critique Secular? Blasphemy, Injury, and Free Speech*. Berkeley: The Townsend Center for the Humanities, 2009.
- al-Ashfurqani, Muhammad b. Muhammad Khatib (d. ca. 1248). *Sunwan al-qada wa `unwan al-ifta*. Ed. Mujahid al-Islam Qasimi. 4 vols. Kuwait: Wizarat al-awqaf, 2001.
- Ashraf, Syed Irfan. "Darkness at Noon." *Dawn*, April 26, 2010.
- `Asri, Sayf b. `Ali. *al-Qawl al-tamam bi-ithbat al-tafwid madhhaban lil-salaf al-kiram*. Abu Dhabi: Dar al-faqih, 2009.
- `Ata Allah, Shaykh. Ed. *Iqbal nama*. 2 vols. Lahore: Shaykh Muhammad Ashraf, n.d.
- Aybak, Zafar Hasan (d. 1989). *Ap biti*. 3 vols. Lahore: Mansur Book House, n.d.
- . *Khatirat*. Ed. Ghulam Husayn Zulfikar. Lahore: Sang-i mil, 1990.
- al-`Ayni, Abu Muhammad Mahmud b. Ahmad [Badr al-din] (d. 1451). *al-Binaya fi sharh al-hidaya*. 12 vols. Beirut: Dar al-fikr, 1990.
- Azad, Abu'l-Kalam (d. 1958). "al-Khilafa al-Islamiyya," *al-Manar* 23 (1922): 45-56, 102-6, 193-201, 282-9, 361-72, 466-71, 509-12, 691-5, 753-7.
- . *Mas'ala-i khilafat wa jazira-i `arab*. Calcutta: All India Khilafat Committee, 1920.
- Azhar, Muhammad Mas`ud. *Fada'il-i jihad*. Karachi: Maktaba-i Hasan, 2001.
- `Aziz al-Rahman. *Tadhkira-i shaykh al-Hind*. Bijnore: Madani Dar al-ta`lif, 1965.
- al-Babarti, Akmal al-din Muhammad b. Mahmud (d. 1384). *Sharh al-`inaya `ala'l-Hidaya*. Published on the margins of Ibn al-Humam, *Sharh fath al-qadir*. See Ibn al-Humam.
- Baha, Lal. "The Activities of the Mujahidin 1900–1936." *Islamic Studies* 18 (1979): 97–168.
- Baljon, J. M. S. "A Comparison between the Qur'anic Views of `Ubayd Allah Sindhi and Shah Wali Allah." *Islamic Studies* 16 (1977): 179–88.
- . *Religion and Thought of Shah Wali Allah Dihlawi, 1703–1762*. Leiden: Brill, 1986.
- Banerjee, Mukulika. *The Pathan Unarmed: Opposition and Memory in the North West Frontier*. London: James Currey, 2000.
- al-Banna, Hasan (d. 1949). *Majmu`at rasa'il al-imam al-shahid Hasan al-Banna*. Beirut: Dar al-Andalus, 1965.
- . *Mudhakkirat al-da`wa wa'l-da`iya*. Cairo: Dar al-kitab al-`Arabi, n.d.
- Banuri, Muhammad Yusuf (d. 1977). *Ma`arif al-sunan sharh Jami` al-Tirmidhi*. 6 vols. Karachi: H. M. Sa'id Company, 1988–9.

- _____. *Nafhat al-`anbar fi hayat imam al-`asr al-Shaykh Anwar*. Deoband: Bayt al-hikmat, n.d.
- Baqā, Mazhar. *Usul-i fiqh awr Shah Wali Allah*. Islamabad: Idara-i tahqiqat-i Islami, 1973.
- Barry, Brian. "Social Criticism and Political Philosophy." *Philosophy and Public Affairs* 19 (1990): 360–73.
- _____. *Why Social Justice Matters*. Cambridge: Polity Press, 2005.
- Bastawi, Shawkat `Ali Qasimi. "Dahshatgardi ke khilaf Dar al-`Ulum Deoband main ta'rikh-saz kull hind conference." *Dar al-`Ulum* (Deoband), April 2008, 24–56.
- "Bayan ittihad al-`alami li-`ulama al-muslimin yatanawal al-sha'n al-islami." <http://www.Qaradawi.net/component/content/article/5408.html> (accessed January 8, 2012).
- al-Baydawi (d. 1310). *Tafsir al-Baydawi al-musamma Anwar al-tanzil*. 4 vols. Cairo: Matba`a Mustafa Muhammad, n.d.
- Beinin, Joel and Zachary Lockman. *Workers on the Nile: Nationalism, Communism, Islam, and the Egyptian Working Class, 1882–1954*. Princeton: Princeton University Press, 1987.
- Bevir, Mark. *The Logic of the History of Ideas*. Cambridge: Cambridge University Press, 1999.
- Bhagalpuri, Ghulam Husayn. "Aik ahamm tafsiri mas'ale par mujahid-i millat... ka aik giranqadar maktub." *al-Jam`iyyat: Mujahid-i millat number*, 349–50. Delhi: N.p., 1963.
- Bhatti, Muhammad Ishaq. *Bazm-i arjumandan*. Delhi: al-Kitab international, 2005.
- _____. *Nuqush-i `azmat-i rafta*. Delhi: al-Kitab international, 2003.
- Bigiyef, Jar Allah. See Sindhi, `Ubayd Allah.
- al-Bihari, `Abd al-Ra'uf. "Ishtirat al-wali fi'l-nikah." *al-Manar* 8 (1905–6): 931–5.
- Bijnori, Sayyid Ahmad Rida. *Anwar al-bari, Urdu sharh sahih al-Bukhari*. 19 vols. Multan: Idara-i ta'lifat-i ashrafiyya, 2004.
- _____. *Malfuzat-i muhaddith Kashmiri*. Deoband: Bayt al-hikmat, n.d.
- Binder, Leonard. *Religion and Politics in Pakistan*. Berkeley: University of California Press, 1961.
- Blunt, Wilfrid Scawen. *India Under Ripon: A Private Diary*. London: T. Fisher Unwin, 1909.
- Bowen, John. *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning*. Cambridge: Cambridge University Press, 2003.
- _____. *Why the French Don't Like Headscarves: Islam, the State, and Public Sphere*. Princeton: Princeton University Press, 2007.
- Brockelmann, Carl. *Geschichte der arabischen Litteratur*. 2 vols. + 3 supplements. Leiden: Brill, 1996.
- Brown, Daniel. *Rethinking Tradition in Modern Islamic Thought*. Cambridge: Cambridge University Press, 1996.
- Brown, Dorothy M. and Elizabeth McKeown. *The Poor Belong to Us: Catholic Charities and American Welfare*. Cambridge: Harvard University Press, 1997.
- Brown, Nathan J. *The Rule of Law in the Arab World: Courts in Egypt and the Gulf*. Cambridge: Cambridge University Press, 1997.
- _____. "Shari`a and State in the Modern Middle East," *International Journal of Middle East Studies* 29 (1997): 359–76.
- Brunner, Rainer. "Education, Politics, and the Struggle for Intellectual Leadership: al-Azhar between 1927 and 1945." In *Guardians of Faith in Modern Times: `Ulama in the Middle East*, ed. Meir Hatina, 109–40. Leiden: Brill, 2009.

- Bush, Julia. *Women against the Vote: Female Anti-Suffragism in Britain*. Oxford: Oxford University Press, 2007.
- Caeiro, Alexandre. "The Power of European Fatwas: The Minority Fiqh Project and the Making of an Islamic Counterpublic." *International Journal of Middle East Studies* 42 (2010): 435–49.
- . "The Social Construction of Shari`a: Bank Interest, Home Purchase, and Islamic Norms in the West," *Die Welt des Islams* 44 (2004): 351–75.
- Calhoun, Craig. "The Public Good as a Social and Cultural Project." In *Private Action and the Public Good*, ed. Walter W. Powell and Elisabeth S. Clemens, 20–35. New Haven: Yale University Press, 1998.
- Casanova, José. *Public Religions in the Modern World*. Chicago: University of Chicago Press, 1994.
- Chandra, Bipan. "The Ideological Development of the Revolutionary Terrorists in Northern India in the 1920s." In *Socialism in India*, ed. B. R. Nanda, 163–89. Delhi: Vikas Publications, 1972.
- Chittick, William. "Between the Yes and the No: Ibn al-`Arabi on *Wujud* and the Innate Capacity." In *The Innate Capacity: Mysticism, Psychology, and Philosophy*, ed. Robert K. C. Forman, 95–110. New York: Oxford University Press, 1998.
- Claeys, Gregory. *Imperial Sceptics: British Critics of Empire, 1850–1920*. Cambridge: Cambridge University Press, 2010.
- Cleveland, William L. *Islam Against the West: Shakib Arslan and the Campaign for Islamic Nationalism*. Austin: University of Texas Press, 1985.
- Cohen, Stuart A. "Tensions between Military Service and Jewish Orthodoxy in Israel: Implications Imagined and Real." In *Militarism and Israel Society*, ed. Gabriel Sheffer and Oren Barak, 120–44. Bloomington: Indiana University Press, 2010.
- Commins, David Dean. *Islamic Reform: Politics and Social Change in Late Ottoman Syria*. New York: Oxford University Press, 1990.
- Cook, Michael. *Commanding Right and Forbidding Wrong in Islamic Thought*. Cambridge: Cambridge University Press, 2000.
- . *Forbidding Wrong in Islam*. Cambridge: Cambridge University Press, 2003.
- Costet-Tardieu, Francine. *Un réformiste à l'université al-Azhar: Oeuvre et pensée de Mustafa al-Maraghi*. Paris: Karthala, 2005.
- Coulson, N. J. "Reform of Family Law in Pakistan." *Studia Islamica* 7 (1957): 135–55.
- Cromer, Earl of. *Modern Egypt*. 2 vols. New York: Macmillan, 1908.
- Crone, Patricia. 2004. *God's Rule: Government and Islam – Six Centuries of Medieval Islamic Political Thought*. New York: Columbia University Press.
- . "'No Compulsion in Religion': Q. 2: 256 in Medieval and Modern Interpretation." In *Le Shi`isme imamite quarante ans après: Hommage à Etan Kohlberg*, ed. M. A. Amir-Moezzi, M. M. Bar-Asher, and S. Hopkins, 131–78. Paris: Brepols, 2009.
- Crystal, Jill. *Oil and Politics in the Gulf: Rulers and Merchants in Kuwait and Qatar*. Cambridge: Cambridge University Press, 1990.
- Dallal, Ahmad. "Appropriating the Past: Twentieth-Century Reconstruction of Pre-Modern Islamic Thought." *Islamic Law and Society* 7 (2000): 325–58.
- Daryabadi, `Abd al-Majid (d. 1977). Ed. *Maktubat-i Sulaymani*. 2 vols. Lucknow: Sidq-i jadid Book Agency, 1963.
- Dawn (Karachi). "Not All Forms of Riba are Prohibited: Counsel." *Dawn*, June 18, 2002.
- . "Ulema a Hurdle in Islamization Process, Says Counsel." *Dawn*, June 19, 2002.

- _____. "Any Amount over Principal is Riba, Says Counsel." *Dawn*, June 22, 2002.
- _____. "Villager Stoned to Death on Imam's Call." July 6, 2002.
- _____. "Girls and Gold Save Four from Gallows." July 24, 2002.
- _____. "[Supreme] C[ourt] Takes Notice of Mianwali Pardon Deal." July 25, 2002.
- _____. "Two Girls Rescued as Aged Grooms Forced to Divorce." July 26, 2002.
- _____. "Girl Wants Wani Custom Abolished." July 27, 2002.
- _____. "Heirs Pardon Killer Father Under Qisas Law." July 27, 2002.
- _____. "Parties in Mianwali Stick to Revised Deal." July 29, 2002.
- _____. "Another Face of Vani." March 25, 2006.
- _____. "Taliban Kill Cleric Critical of Suicide Attacks." November 14, 2008.
- _____. "Deoband Ulema Term All Taliban Actions Un-Islamic." June 20, 2009.
- _____. "Militants Warn Vendors to Cut Prices." August 28, 2009.
- _____. "Court Orders Child-marriage Victim to be handed over to Missing Mother." December 12, 2009.
- _____. "Child Marriage Victim Handed Over to Grandmother." December 13, 2009.
- _____. "Six Jirga Members, Cleric Held in Vani Case." *Dawn*, December 26, 2009.
- _____. "Wife of TTP's Spokesman Held in Bajaur." March 14, 2010.
- _____. "CM Shahbaz Wants Taliban to Spare Punjab." March 15, 2010.
- _____. "Girl's Body Torched: Man Kills Wife, Two Daughters for 'Honour'." May 7, 2010.
- _____. "Three Killed in Name of Honour." June 23, 2010.
- _____. "Prayer Leader, Five Others Booked in Vani Case." July 19, 2010.
- _____. "Son-in-law Guns Down Gang-rape Victim for Honour." July 24, 2010.
- _____. "Woman Sold into Marriage Draws Police Attention." August 1, 2010.
- _____. "Suicide Bomber Targets Maulana Fazl's Convoy; 10 Killed." March 31, 2011.
- _____. "Fazl Escapes Second Attack in Two Days." April 1, 2011.
- De, Rohit. "Mumtaz Bibi's Broken Heart: The Many Lives of the Dissolution of Muslim Marriages Act." *Indian Economic and Social History Review* 46 (2009): 105–30.
- Douglas, Ian Henderson. *Abul Kalam Azad: An Intellectual and Religious Biography*. Delhi: Oxford University Press, 1988.
- Dudoignon, Stéphane, et al. Eds., *Intellectuals in the Modern Islamic World: Transmission, Transformation, Communication*. London: Routledge, 2006.
- Ebert, Johannes. *Religion und Reform in der arabischen Provinz: Husayn al-Ğisr at-Tarabulusi (1845–1909) – Ein islamischer Gelehrter zwischen Tradition und Reform*. Frankfurt: Peter Lang, 1991.
- Edwards, David B. *Heroes of the Age: Moral Faultlines on the Afghan Frontier*. Berkeley: University of California Press, 1996.
- Eickelman, Dale F. "Mass Higher Education and the Religious Imagination in Contemporary Arab Societies." *American Ethnologist* 19/4 (1992): 643–55.
- Eickelman, Dale F. and James Piscatori. *Muslim Politics*. Princeton: Princeton University Press, 1996.
- El-Ghobashy, Mona. "The Metamorphosis of the Egyptian Muslim Brothers." *International Journal of Middle East Studies* 37 (2005): 373–95.
- El-Rouayheb, Khaled. "From Ibn Hajar al-Haytami (d. 1566) to Khayr al-Din al-Alusi (d. 1899): Changing Views of Ibn Taymiyya among non-Hanbali Sunni Scholars." In *Ibn Taymiyya and His Times*, ed. Rapoport and Ahmed, 269–318.
- Enayat, Hamid. *Modern Islamic Political Thought*. London: I. B. Tauris, 2005.
- Encyclopaedia of Islam*. 2nd edition. Leiden: Brill, 1960–2002. 3rd edition, Leiden: Brill, 2007–.

- Encyclopedia of the Qur'an*. Ed. Jane D. McAuliffe. Leiden: Brill, 2001–7.
- Engineer, Asghar Ali. Ed. *The Shah Bano Controversy*. Bombay: Orient Longman, 1987.
- Euben, Roxanne L. and Muhammad Qasim Zaman. *Princeton Readings in Islamist Thought*. Princeton: Princeton University Press, 2009.
- European Council for Fatwa and Research. *al-Majalla al-`ilmiyya lil-majlis al-urubbi lil-ifta' wa'l-buhuth*, vol. 2. Dublin: N.p., 2003.
- _____. "al-Nizam al-asasi." <http://www.e-cfr.org> (accessed November 14, 2009).
- Express* (Lahore). "Narm inqilab se nizam na badla to khuni inqilab a kar rahe ga." August 10, 2009.
- Ezdi, Asif. "Stop This March of Folly." *The News*, June 20, 2009.
- Fahim, Kareem. "Slap to a Man's Pride Set Off Tumult in Tunisia." *The New York Times*, January 22, 2011: A1.
- Faraj, Muhammad `Abd al-Salam. *al-Farida al-gha'iba*. N.p., n.d. (ca. 1990).
- Faruki, Kemal A. *Ijma and the Gate of Ijtihad*. Karachi: Gateway Publications, 1954.
- Fatawa Dar al-`Ulum Deoband*. See `Uthmani, `Aziz al-Rahman.
- Feener, R. Michael. *Muslim Legal Thought in Modern Indonesia*. Cambridge: Cambridge University Press, 2007.
- Filkins, Dexter. "Talibanistan: A Journey into Pakistan's Tribal Areas." *The New York Times Magazine*, September 7, 2008: 54–61, 114–16.
- Finnis, John. *Natural Law and Natural Rights*. Oxford: Clarendon Press, 1982.
- Fisk, Robert. "The Crime Wave that Shames the World." *The Independent* (London), September 7, 2010.
- _____. "The Lie Behind Mass 'Suicides' of Egypt's Young Women." *The Independent*, September 9, 2010.
- _____. "One Woman's Nightmare, and a Crime against Humanity." *The Independent*, September 7, 2010.
- _____. "Relatives with Blood on their Hands." *The Independent*, September 8, 2010.
- Friedmann, Yohanan. "The Jam'iyat al-`Ulama-i Hind in the Wake of Partition." *Asian and African Studies* 11 (1976): 181–211.
- Fuyud al-Rahman. *Mashahir `Ulama*. 3 vols. Lahore: Frontier Publishing Company, n.d.
- Fyzee, Asaf A. A. *The Reform of Muslim Personal Law in India*. Bombay: Nachiketa Publications Ltd., 1971.
- Gall, Carlotta. "Report Says Pakistan Intelligence Agency Exerts Great Sway on Afghan Taliban." *The New York Times*, June 14, 2010: A8.
- Gangohi, Rashid Ahmad (d. 1905). *Ta'lif-i rashidiyya ma`a fatawa rashidiyya*. Lahore: Idara-i Islamiyyat, 1992.
- Gaonkar, Dilip and Charles Taylor. "Block Thinking and Internal Criticism." *Public Culture* 18 (2006): 453–5.
- Gellner, Ernest. *Nations and Nationalism*. Oxford: Blackwell, 1983.
- Gershoni, Israel and James P. Jankowski. *Redefining the Egyptian Nation, 1930–1945*. Cambridge: Cambridge University Press, 1995.
- Gesink, Indira Falk. *Islamic Reform and Conservatism: Al-Azhar and the Evolution of Modern Sunni Islam*. London: I. B. Tauris, 2010.
- al-Ghazali, Abu Hamid (d. 1111). *The Incoherence of the Philosophers*. Trans. Michael E. Marmura. Provo: Brigham Young University, 2000.
- _____. *al-Mustasfa min `ilm al-usul*. 2 vols. Bulaq: al-Matba'a al-amiriyya, 1904.
- _____. *al-Qistas al-mustaqim*. Ed. Victor Shalhat. Beirut: al-Matba'a al-kathulikiyya, 1959.

- al-Ghitrifi, `Ala. "al-Qaradawi: Ashab al-fatawa al-mudallila yatabajjahun ka-annahum sunna` al-thawra ragham mawqifihim al-makhzi." *al-Misri al-yawm*, April 4, 2011.
- Gibb, H. A. R. *Modern Trends in Islam*. Chicago: University of Chicago Press, 1947.
- Gilani, Manazir Ahsan (d. 1956). *al-Din al-qayyim*. Ed. Abu Salman Shahjahanpuri. Karachi: Maktaba-i as`adiyya, 2001.
- . *Ihata-i Dar al-`Ulum main bite huwe din*. Ed. I`jaz Ahmad A`zami. Deoband: Maktaba-i tayyiba, n.d.
- . *Islami ma`ashiyyat*. Karachi: Dar al-isha`at, n.d. (2002; first published in 1945).
- . "Mas`ala-i sud Muslim wa harbi main," *Ma`arif*, 56/5 (1945): 269–91; *ibid.*, 56/6 (1945): 341–61; *ibid.*, 57/1 (1946): 5–31; *ibid.*, 58/6 (1946): 468–9.
- . *Muqaddima-i tadwin-i fiqh*. Lahore: Maktaba-i rashidiyya, 1976.
- . *Pak wa Hind main musalmanon ka nizam-i ta`lim wa tarbiyat*. Lahore: Maktaba-i Rahmaniyya, n.d.
- . *Tadwin-i hadith*. Karachi: Maktaba-i Ishaqiyya, n.d. (1982).
- . *Tadhkira-i hadrat Shah Wali Allah*. Lyallpur [Faisalabad]: Islamic Academy, 1965.
- Gilmartin, David. *Empire and Islam: Punjab and the Making of Pakistan*. Berkeley: University of California Press, 1988.
- Giustozzi, Antonio. *Koran, Kalashnikov, and Laptop: The Neo-Taliban Insurgency in Afghanistan*. New York: Columbia University Press, 2008.
- Goopu, Nandini. *Politics of the Urban Poor in Early Twentieth-Century India*. Cambridge: Cambridge University Press, 2001.
- Gould, William. *Hindu Nationalism and the Language of Politics in Late Colonial India*. Cambridge: Cambridge University Press, 2004.
- Gräf, Bettina. *Medien-Fatwas@Yusuf al-Qaradawi: Die Popularisierung des islamischen Rechts*. Berlin: Klaus Schwarz Verlag, 2010.
- Gräf, Bettina and Jakob Skovgaard-Petersen. *Global Mufti: The Phenomenon of Yusuf al-Qaradawi*. New York: Columbia University Press, 2009.
- Graham, William A. "Traditionalism in Islam: An Essay in Interpretation." *Journal of Interdisciplinary History* 23 (1993): 495–522.
- Gray, John. *Liberalism*. Minneapolis: University of Minnesota Press, 1986.
- Gulf Times. "QF [Qatar Foundation] Sets Up Islamic College." April 15, 2007.
- Haddad, Mahmoud. "Arab Religious Nationalism in the Colonial Era: Rereading Rashid Rida's Ideas on the Caliphate." *Journal of the American Oriental Society* 117 (1997): 253–77.
- . "Risalat al-Shaykh Rashid Rida ila Lloyd George fi 1919." *Chronos: Revue d'histoire de l'université de Balamand* 2 (1999): 159–78.
- Halawi, Jailan. "Conversion Tensions Strike Again." *Al-Ahram Weekly Online*, March 3–9, 2005. <http://weekly.ahram.org.eg>
- Halepota, A. J. "Sindhi `Ulama's Contributions towards Understanding and Interpretation of the Holy Qur'an in the Modern Context," *Islamic Studies* 21 (1982): 1–18.
- Hallaq, Wael B. *Authority, Continuity, and Change in Islamic Law*. Cambridge: Cambridge University Press, 2001.
- . *A History of Islamic Legal Theories*. Cambridge: Cambridge University Press, 1997.
- . "On the Authoritativeness of Sunni Consensus." *International Journal of Middle East Studies* 18 (1986): 427–54.
- . *Shari`a: Theory, Practice, Transformations*. Cambridge: Cambridge University Press, 2009.

- al-Hamazani, Muhammad. "Uthmani: Lastu radiyan `an `amal al-bunuk al-islamiyya illa bi-tatbiq shartayn." *al-Sharq al-awsat* (London), August 19, 2010.
- Hanioglu, M. Şükrü. *Atatürk: An Intellectual Biography*. Princeton: Princeton University Press, 2011.
- . *A Brief History of the Late Ottoman Empire*. Princeton: Princeton University Press, 2008.
- Harding, Jeremy. "The Money that Prays." *London Review of Books*. April 30, 2009.
- Haroon, Sana. *Frontier of Faith: Islam in the Indo-Afghan Borderland*. New York: Columbia University Press, 2007.
- Hasan, Ahmad. *The Doctrine of Ijma` in Islam*. Islamabad: Islamic Research Institute, n.d. (1976).
- Hasan, Mushirul. *A Nationalist Conscience: M. A. Ansari, the Congress and the Raj*. Delhi: Manohar, 1987.
- Hassan, Ahmed. "Uproar in Senate over Burying of Women Alive." *Dawn*, September 2, 2008.
- Hassan, Mona. "Modern Interpretations and Misinterpretations of a Medieval Scholar: Apprehending the Political Thought of Ibn Taymiyya." In *Ibn Taymiyya and His Times*, ed. Rapoport and Ahmed, 338–66.
- Hawting, G. R. "The Significance of the Slogan 'La hukma illa lillah and the References to the Hudud in the Traditions about the Fitna and the Murder of `Uthman.'" *Bulletin of the School of Oriental and African Studies* 41 (1978): 453–63.
- Haykel, Bernard. *Revival and Reform in Islam: The Legacy of Muhammad al-Shawkani*. Cambridge: Cambridge University Press, 2003.
- Hefner, Robert W. and Muhammad Qasim Zaman. Eds. *Schooling Islam: The Culture and Politics of Modern Muslim Education*. Princeton: Princeton University Press, 2007.
- Hermansen, Marcia. *The Conclusive Argument from God: Shah Wali Allah of Delhi's Hujjat Allah al-Baligha*. Leiden: Brill, 1996.
- Hinds, Martin. "Kufan Political Alignments and their Background in mid-Seventh Century A.D." *International Journal of Middle East Studies* 2 (1971): 346–67.
- Hirschkind, Charles. *The Ethical Soundscape: Cassette Sermons and Islamic Counterpublics*. New York: Columbia University Press, 2006.
- Hourani, Albert. *Arabic Thought in the Liberal Age*. Cambridge: Cambridge University Press, 1983.
- Hourani, George F. "The Basis of Authority of Consensus in Sunnite Islam." In *Reason and Tradition in Islamic Ethics*, George F. Hourani, 190–226. Cambridge: Cambridge University Press, 1985.
- Hunter, W. W. *The Indian Musalmans*. 2nd edition. London: Trübner and Company, 1872.
- Huntington, Samuel P. *The Clash of Civilizations and the Remaking of World Order*. New York: Simon & Schuster, 1996.
- Husayn, `Imad al-din, Muhammad Sa`d `Abd al-Hafiz and Khalid Musa. "al-Qaradawi lil-Shuruq: al-Shar`iyya lil-barlaman faqat." *al-Shuruq*, February 15, 2012. <http://www.shorouknews.com/news/view.aspx?cdate=15022012&id=36209e08-1dde-4588-95a6-1d99b50677eb> (accessed February 21, 2012).
- Husayn, Mushtaq. Ed. *Baqiyyat-i Shibli*. Delhi: Azad kitab ghar, 1964.
- Hussain, Zahid. "From Much Sought After to 'Most Wanted'." *Dawn*, May 31, 2009.
- Ibn Abi Hatim (d. 938). *Tafsir al-Qur'an al-`azim*. Ed. As`ad Muhammad al-Tayyib. 14 vols. Mecca: Maktabat Nizar Mustafa al-Baz, 1999.

- Ibn `Abidin, Muhammad Amin (d. 1836). *Radd al-muhtar `ala al-durr al-mukhtar*. Ed. `Adil Ahmad `Abd al-Mawjud and `Ali Muhammad Mu`awwid. 14 vols. Beirut: Dar al-kutub al-`ilmiyya, 1994.
- . *Rasa`il Ibn `Abidin*. N.p., n.d.
- Ibn Hajar al-`Asqalani (d. 1449). *al-Durar al-kamina*. Ed. Muhammad Sayyid Jad al-Haqq. 5 vols. Cairo: Dar al-kutub al-haditha, 1966–7.
- Ibn Hazm (d. 1064). *al-Muhalla bi`l-athar*. Ed. Ahmad Muhammad Shakir. Cairo: Idarat al-tiba`a al-muniriyya, 1928–34.
- . *al-Muhalla bi`l-athar*. Beirut: Dar al-kutub al-`ilmiyya, 1988.
- Ibn Hisham (d. 833). *al-Sira al-nabawiyya*. Ed. Mustafa al-Saqqa et al. 4 vols. Cairo: Matba`at Mustafa al-Babi al-Halabi, 1936.
- Ibn al-Humam (d. 1457). *Sharh fath al-qadir*. 8 vols. Bulaq: al-Matba`a al-kubra al-amiriyya, 1898.
- Ibn Kathir (d. 1373). *Tafsir al-Qur`an al-`azim*. Ed. Mustafa al-Sayyid Muhammad et al. 15 vols. Cairo: Mu`assasat Qurtuba, 2000.
- Ibn al-Nahhas (d. 1411). *Mashari` al-ashwaq ila masari` al-`ushshaq*. Ed. Idris Muhammad `Ali and Muhammad Khalid Istanbuli. 2 vols. Beirut: Dar al-basha`ir al-Islamiyya, 1990.
- Ibn Qayyim al-Jawziyya (d. 1350). *Ahkam ahl al-dhimma*. Ed. Yusuf b. Ahmad al-Bakri and Shakir b. Tawfiq al-`Aruri. 3 vols. Dammam: Dar Ibn Hazm, 1997.
- . *l`lam al-muwaqqi`in*. Ed. Taha `Abd al-Ra`uf Sa`d. 4 vols. Beirut: Dar al-jil, 1973.
- Ibn Rajab (d. 1393). *Kitab dhayl `ala tabaqat al-Hanabila*. Ed. Muhammad Hamid al-Fiqi. 2 vols. Cairo: Matba`a al-sunna al-Muhammadiyya, 1952–3.
- Ibn Ridwan (d. 1381). *al-Shuhub al-lami`a fi`l-siyasa al-nafi`a*. Ed. Sulayman Ma`tuq al-Rifa`i. Beirut: Dar al-madar al-Islami, 2002.
- Ibn Taymiyya (d. 1328). *Iqtida al-sirat al-mustaqim mukhalifat ashab al-jahim*. Ed. Muhammad Hamid al-Fiqi. Cairo: Matba`at al-sunna al-Muhammadiyya, n.d.
- . *Majmu` fatawa Shaykh al-Islam Ahmad ibn Taymiyya*. Ed. `Abd al-Rahman b. Muhammad al-`Asimi. 37 vols. Beirut: Mu`assasat al-risala, 1997.
- . *Majmu`at al-rasa`il wa`l-masa`il*. Ed. Muhammad Rashid Rida. 5 vols. Cairo: Matba`at al-Manar, 1922–30.
- . *Qa`ida mukhtasara fi qital al-kuffar wa muhadanatihim wa tahrir qatlihim li-mujarrad kufrihim*. Ed. `Abd al-`Aziz b. `Abd Allah b. Ibrahim Al Hamad. Riyadh: N.p., 2004.
- . *al-Siyasa al-shar`iyya*. Ed. `Ali Sami al-Nashshar and Ahmad Zaki `Atiyya. 2nd ed. Cairo: Dar al-kitab al-`Arabi, 1951.
- “l`lamiyya-i dahshatgardi-mukhalif kull hind conference.” In Bastawi, “Dahshatgardi ke khilaf Dar al-`Ulum Deoband main ta`rikh-saz kull hind conference.” *Dar al-`Ulum* (Deoband), April 2008: 54–6.
- International Union of Muslim Scholars (IUMS). “Constitution of the International Union for Muslim Scholars.” http://www.iumsonline.net/english/topic_03.shtml (accessed October 25, 2007).
- . “Current Board of Trustees.” http://www.iumsonline.net/English/topic_06b.shtml (accessed October 25, 2007).
- . “al-Mithaq al-Islami lil-ittihad al-`alami li-`ulama al-muslimin.” <http://www.iumsonline.net> (accessed October 25, 2007).
- Iqbal, Mohammad (d. 1938). *Poems from Iqbal*. Translated by V. G. Kiernan. London: John Murray, 1955.

- _____. *The Reconstruction of Religious Thought in Islam*. London: Oxford University Press, 1934.
- See also `Ata Allah, Shaykh.
- Iqbal, Nasir. "S[upreme] C[ourt] Orders Arrest of Jirga Members: Handing over of Minor Girls to Victim's Family." *Dawn*, August 16, 2007.
- "Islam's Authority Deficit." *The Economist*, June 28, 2007.
- Islamic Fiqh Academy, India. "Aims and Objectives." <http://ifa-india.org/english/aimsObjectives.html> (accessed November 17, 2009).
- _____. *al-Irhab wa'l-salam*. 2nd edition. Delhi: Majma` al-fiqh al-Islami bi'l-Hind, 2007.
- _____. *Islam awr amn-i `alam*. IFA Publications, 2006.
- _____. *Jabri shadi ka shar`i hukm*. Delhi: IFA Publications, 2004.
- _____. *Majma` al-fiqh al-Islami al-Hind: Ta`rifuhu, ahdafuhu, anshitatuhu*. Delhi: Majma` al-fiqh al-Islami bi'l-Hind, n.d. (2007).
- _____. *World Peace and Islam*. Translated by Obaidullah Fahad. Beirut: Dar al-kutub al-`ilmiyya, 2010.
- See also Qasimi, Mujahid al-Islam.
- Izutsu, Toshihiko. *Ethico-Religious Concepts in the Qur'an*. Montreal: McGill-Queen's University Press, 2002.
- Jackson, Sherman. *Islamic Law and the State: The Constitutional Jurisprudence of Shihab al-Din al-Qarafi*. Leiden: Brill, 1996.
- Jalal, Ayesha. *Partisans of Allah: Jihad in South Asia*. Cambridge: Harvard University Press, 2008.
- al-Jalal, al-Hasan b. Ahmad. *Daw al-nahar al-mushriq `ala safahat al-azhar*. 4 vols. San`a: Majlis al-qada al-`ala, 1981.
- al-Jam`iyya: Mujahid-i millat number*. Delhi: Idara-i tarjuman al-haqq, 1963.
- Jansen, J. J. G. *The Interpretation of the Koran in Modern Egypt*. Leiden: E. J. Brill, 1974.
- al-Jassas, Abu Bakr Ahmad ibn `Ali al-Razi (d. 981). *Ahkam al-Qur'an*. 3 vols. Beirut: Dar al-kitab al-`Arabi, n.d. (1971; a reprint of the Istanbul 1916–20 edition).
- _____. *Sharh mukhtasar al-Tahawi*. Ed. Zaynab Muhammad Hasan Fallata et al. 8 vols. Beirut: Dar al-basha'ir, 2010.
- Jones, Justin. "'Signs of Churning': Muslim Personal Law and Public Contestation in Twenty-first Century India." *Modern Asian Studies* 44 (2010): 175–200.
- Jum`a, `Ali. *Aliyyat al-ijtihad*. Cairo: Dar al-risala, 2004.
- Kahn, Paul W. *Putting Liberalism in Its Place*. Princeton: Princeton University Press, 2005.
- Kalhor, M. B. "Jirga Labels Underage Boy, Minor Girl Karo-kari." *Dawn*, June 13, 2010.
- _____. "Woman Saved by Villagers, Police from 'Kari' Death." *Dawn*, July 13, 2010.
- _____. "Woman Who Defied 'Kari' Death Wants to Join Police." *Dawn*, July 14, 2010.
- "Kalisa-i Amrika awr masa'il-i iqtisadi ka hall." *Ma`arif* 33/1 (1934): 52–3.
- Kamrava, Mehran. "Royal Factionalism and Political Liberalization in Qatar." *Middle East Journal* 63/3 (2009): 401–20.
- Kanlidere, Ahmet. *Reform within Islam: The Tajdid and Jadid Movement among the Kazan Tatars (1809–1917)*. Istanbul: Eren, 1997.
- al-Kashmiri, Anwarshah (d. 1933). *al-`Arf al-shadhi sharh sunan al-Tirmidhi*. Ed. `Amr Shawkat (the work was compiled in 1920 by Kashmiri's student Muhammad Chiragh). 4 vols. Beirut: Dar al-kutub al-`ilmiyya, 2007.

- _____. *Fayd al-bari `ala Sahih al-Bukhari*. Compiled by Muhammad Badr-i `Alam Mirathi. 4 vols. Deoband: al-Maktaba al-Ashrafiyya, 2000.
- _____. *Fayd al-bari, sharh Sahih al-Bukhari*. Compiled by Muhammad Badr-i `Alam Mirathi. Ed. Ahmad `Inaya. 8 vols. Beirut: Dar ihya al-turath al-`Arabi, 2005.
- _____. *Ikfar al-mulhidin fi daruriyyat al-din*. 2nd edition. Dabhel: al-Majlis al-`ilmi, 1988.
- _____. “Khutba-i sadarat az Mawlana Sayyid Muhammad Anwarshah.” In *Jam`iyyat al-`Ulama-i Hind: Dastawizat-i markazi ijlasha-i `amm*, ed. Parvin Rozina, 1: 385–451.
- _____. *al-Tasrih bi-ma tawatara fi nuzul al-masih*. Ed. `Abd al-Fattah Abu Ghudda. Halab: Maktabat al-matbu`at al-Islamiyya, 1965.
- See also* Bijnori, Sayyid Ahmad Rida.
- Kaya, Eyyup Said. “Continuity and Change in Islamic Law: The Concept of Madhhab and the Dimensions of Legal Disagreement in Hanafi Scholarship of the Tenth Century.” In *The Islamic School of Law: Evolution, Devolution, and Progress*, ed. Peri Bearman, Rudolph Peters, and Frank E. Vogel, 26–40. Cambridge: Islamic Legal Studies Program, 2005.
- Kent, Susan Kingsley. *Making Peace: The Reconstruction of Gender in Interwar Britain*. Princeton: Princeton University Press, 1993.
- Kepel, Gilles. *Jihad: The Trail of Political Islam*. Cambridge, MA: Harvard University Press, 2002.
- _____. *The War for Muslim Minds: Islam and the West*. Cambridge, MA: Harvard University Press, 2004.
- Kerr, Malcolm H. *Islamic Reform: The Political and Legal Theories of Muhammad `Abduh and Rashid Rida*. Berkeley: University of California Press, 1966.
- Khadduri, Majid. *The Islamic Law of Nations: Shaybani’s Siyar*. Baltimore: The Johns Hopkins University Press, 1966.
- Khan, Atiq. “Vastanvi Removed as Darul Uloom Chief.” *The Hindu* (Delhi), July 24, 2011.
- Khan, Hameedullah. “Girls’ School, Shops Blown Up in Swat.” *Dawn*, July 26, 2008.
- _____. “School Building, MNA’s House Blown Up in Swat.” *Dawn*, December 13, 2008.
- Khan, Sayyid [Syed] Ahmad. “Translation of the Report of the Members of the Select Committee for the Better Diffusion and Advancement of Learning among the Muhammadans of India.” In *The Aligarh Movement: Basic Documents, 1864–1898*, ed. Shan Muhammad, 2: 337–80.
- Khan, `Umar Faruq. *Ishdiraki `alim-i rabbani: Mawlana `Abd al-Rahim Popalzai*. Lahore: Sindh Sagar Academy, 1970.
- Kifayat Allah. *Kifayat al-mufti*. Ed. Hafiz al-Rahman Wasif. 9 vols. Delhi: Hafiz al-Rahman Wasif, 1971–7.
- Kifner, John. “Massacre Draws Self-Criticism in Muslim Press.” *The New York Times*. September 9, 2004: A8.
- Kirkpatrick, David D. “After Lengthy Exile, Sunni Cleric Adds Voice in Shaping of Egypt.” *The New York Times*, February 19, 2011: A1.
- Kondu, `Abd al-Rahman. *al-Anwar: Shaykh al-hadith hadrat `allama Muhammad Anwarshah Kashmiri ki sawanih hayat awr kamalat wa tajalliyyat*. Delhi: Nadwat al-musannifin, 1978.
- Krämer, Gudrun. “Drawing Boundaries: Yusuf al-Qaradawi on Apostasy.” In *Speaking for Islam: Religious Authorities in Muslim Societies*, ed. Gudrun Krämer and Sabine Schmidtke, 181–217. Leiden: Brill, 2006.

- . *Gottes Staat als Republik: Reflexionen zeitgenössischer Muslime zu Islam, Menschenrechten und Demokratie*. Baden-Baden: Nomos Verlagsgesellschaft, 1999.
- . *Hasan al-Banna*. Oxford: Oneworld Publications, 2010.
- Krämer, Gudrun and Sabine Schmidtke. "Introduction." In *Speaking for Islam*, ed. Krämer and Schmidtke, 1-14.
- Kramer, Martin. *Islam Assembled: The Advent of the Muslim Congresses*. New York: Columbia University Press, 1986.
- Kuran, Timur. *Islam and Mammon: The Economic Predicaments of Islamism*. Princeton: Princeton University Press, 2004.
- Laffan, Michael. *Islamic Nationhood and Colonial Indonesia: The Umma below the Winds*. London: RoutledgeCurzon, 2003.
- Laghari, `Abd Allah (d. 1958). *Mawlana `Ubayd Allah Sindhi ki sarguzasht-i Kabul*. Ed. Ghulam Mustafa Khan. Islamabad: Qawmi idara bara-i tahqiq-i ta'rikh wa thaqafat, 1980.
- Lagos Weekly Record* (Lagos). "The Marriage Problem in England." April 20, 1901.
- . "The Marriage Question in England." April 20, 1901.
- Lambert-Hurley, Siobhan. *Muslim Women, Reform and Princely Patronage: Nawab Sultan Jahan Begam of Bhopal*. London: Routledge, 2007.
- Lear, Jonathan. "Can the Virtuous Person Exist in the Modern World?" *London Review of Books*, November 2, 2006: 24-5.
- Lelyveld, David. *Aligarh's First Generation: Muslim Solidarity in British India*. Princeton: Princeton University Press, 1978.
- . "Disenchantment at Aligarh: Islam and the Realm of the Secular in Late Nineteenth Century India." *Die West des Islams* 22 (1982): 85-102.
- Lieven, Anatol. *Pakistan: A Hard Country*. New York: Public Affairs, 2011.
- Lombardi, Clark B. *State Law as Islamic Law in Modern Egypt: The Incorporation of the Shari'a into Egyptian Constitutional Law*. Leiden: Brill, 2006.
- Lynch, Marc. *Voices of the New Arab Public: Iraq, Al-Jazeera, and Middle East Politics Today*. New York: Columbia University Press, 2006.
- MacIntyre, Alasdair. "Politics, Philosophy and the Common Good." In *The MacIntyre Reader*, ed. Kelvin Knight, 235-52. Notre Dame: University of Notre Dame Press, 1998.
- . *Whose Justice? Which Rationality?* Notre Dame: University of Notre Dame Press, 1988.
- Madani, Asjad. *Jang-i azadi main Jam`iyyat `Ulama-i Hind ki khidmat aik nazar main*. Delhi: Shu`ba-i nashr wa isha`at-i Jam`iyyat `Ulama-i Hind, n.d. In South Asia Ephemera Collection, I-CLR-439.1.
- Madani, Husayn Ahmad (d. 1957). *Maktubat-i Shaykh al-Islam*. Ed. Najm al-din Islahi. 4 vols. Deoband: Maktaba-i diniyya, 1963.
- . *Muttahida qawmiyyat awr Islam*. Delhi: Qawmi aikta trust, n.d. (ca. 1938).
- . *Naqsh-i hayat*. 2 vols. Karachi: Bayt al-tawhid, n.d. (written between 1944 and 1953).
- . Untitled essay on `Ubayd Allah Sindhi. In *Dhati Diary*, Sindhi, 41-50.
- al-Mahalli, Jalal al-din Muhammad b. Ahmad and Jalal al-din al-Suyuti. *Tafsir al-Qur'an al-karim*. Cairo: Dar al-qalam, 1966.
- Mahmasani, Subhi. *Falsafat al-tashri' fi'l-Islam*. 2nd edition. Beirut: Matabi` dar al-kashshaf, 1952 (first published in 1946).

- Mahmood, Saba. *Politics of Piety: The Islamic Revival and the Feminist Subject*. Princeton: Princeton University Press, 2005.
- Mahmood, Tahir. "Islamic Law and State Legislation on Religious Conversion in India." In *Islam and Public Law*, ed. Chibli Mallat, 159–92. London: Graham & Trotman, 1993.
- Mahmud, `Abd al-Halim. *al-Hamd lillah hadhihi hayati*, vol. 1. Cairo: Dar al-ma`arif, n.d.
- al-Makhzumi, Muhammad Basha. *Khatirat Jamal al-din al-Afghani al-Husayni*. Beirut: al-Matba`a al-`ilmiyya, 1931.
- Malihabadi, `Abd al-Razzaq (d. 1959). *Zikr-i Azad*. Delhi: Educational Publishing House, 2006.
- Malik, Jamal. *Islamische Gelehrtenkultur in Nordindien: Entwicklungsgeschichte und Tendenzen am Beispiel von Lucknow*. Leiden: Brill, 1997.
- . "Letters, Prison Sketches and Autobiographical Literature: The Case of Fadl-e Haqq Khairabadi in the Andaman Penal Colony." *The Indian Economic and Social History Review* 43 (2006): 77–100.
- . "The Making of a Council: The Nadwat al-`Ulama." *Zeitschrift der deutschen morgenländischen Gesellschaft* 144 (1994): 60–91.
- Mallat, Chibli. "The Debate on Riba and Interest in Twentieth Century Jurisprudence." In *Islamic Law and Finance*, ed. Chibli Mallat, 69–88.
- al-Manar (Cairo). "Khitab al-lajna li-sahib al-manar wa iqtirahuha `alayhi." 32 (1932): 280–3.
- . "Nida` amm li-ihya dhikra yawm al-nabi." 32 (1932): 190–2.
- See also Rida, Muhammad Rashid.
- Mansbridge, Jane. "On the Contested Nature of the Public Good." In *Private Action and the Public Good*, ed. Walter W. Powell and Elisabeth S. Clemens, 3–19. New Haven: Yale University Press, 1998.
- Manzoor, Usman. "Two Girls Fall Prey to 'Vani' in Abbottabad." *The News* (Islamabad), February 7, 2009.
- al-Maraghi, Muhammad Mustafa. *al-Ijtihad fi'l-Islam*. Cairo: al-Maktab al-fanni, 1959.
- March, Andrew. *Islam and Liberal Citizenship: The Search for an Overlapping Consensus*. New York: Oxford University Press, 2009.
- al-Marghinani, Burhan al-din (d. 1197). *al-Hidaya sharh Bidayat al-mubtadi*. Ed. Muhammad Muhammad Tamir and Hafiz `Ashur Hafiz. 4 vols. Cairo: Dar al-salam, 2000.
- Masood, Salman. "Video from Taliban Shows the Killing of 16 Pakistanis." *The New York Times*, July 19, 2011: A6.
- Masud, Muhammad Khalid. *Iqbal's Reconstruction of Ijtihad*. Lahore: Iqbal Academy, 1995.
- . *Islamic Legal Philosophy: A Study of Abu Ishaq al-Shatibi's Life and Thought*. Delhi: International Islamic Publishers, 1989.
- . Ed. *Travelers in Faith: Studies of the Tablighi Jama`at as a Transnational Islamic Movement for Faith Renewal*. Leiden: Brill, 2000.
- Mas`udi, Sayyid Anzar Shah Mas`udi. *Naqsh-i dawam*. Deoband: Shah Book Depot, n.d.
- . *Taswir-i Anwar*. Deoband: Ma`had al-Anwar, 2004.
- Mawdudi, Sayyid Abu'l-A`la (d. 1979). *al-Jihad fi'l-Islam*. Delhi: Markazi maktaba-i Islami, 1988; first published in 1927.
- . "Naya nizam-i ta`lim." In idem, *Ta`limat*, 66–100. Lahore: Islamic Publications, 1972.

- “Mawjuda buhran – asbab awr `ilaj: Mulki surat-i hal par mulk ke mumtaẓ `ulama-i kiram ka mushtaraka mawqif.” *al-Faruq* (the monthly journal of the Jamī`a Faruqiyya, Karachi) 24/4 (May 2008): 5–10.
- Mawlawi, Faysal. “Islam al-mar`a wa baqa zawjiha `ala dinihi.” *al-Majalla al-`ilmiyya*, European Council for Fatwa and Research, 2: 249–308.
- Mazzetti, Mark, Scott Shane, and Alissa J. Rubin. “A Brutal Afghan Clan Bedevils the US.” *The New York Times*, September 25, 2011: A1, 14.
- McMeekin, Sean. *The Berlin-Baghdad Express: The Ottoman Empire and Germany’s Bid for World Power*. Cambridge, MA: Harvard University Press, 2010.
- Mehta, Yagnesh. “New Deoband Chief Lauds Modi’s Gujarat.” *The Times of India*, January 19, 2011.
- Messick, Brinkley. “Madhhabs and Modernities.” In *The Islamic School of Law*, ed. Peri Bearman et al., 159–74.
- Metcalf, Barbara D. *Husain Ahmad Madani: The Jihad for Islam and India’s Freedom*. Oxford: Oneworld Publications, 2009.
- . *Islamic Revival in British India: Deoband, 1860–1900*. Princeton: Princeton University Press, 1982.
- . “Madrasas and Minorities in Secular India.” In *Schooling Islam*, ed. Hefner and Zaman, 87–106.
- . Ed. *Islam in South Asia in Practice*. Princeton: Princeton University Press, 2009.
- Metcalf, Thomas R. *Ideologies of the Raj*. Cambridge: Cambridge University Press, 1994.
- Michaels, Walter Benn. *The Trouble with Diversity: How We Learned to Love Identity and Ignore Inequality*. New York: Metropolitan Books, 2006.
- . “What Matters.” *London Review of Books*, August 27, 2009.
- Miftahi, Zafir al-din (d. 2011). *Hayat-i mawlana Gilani*. Benares: Mawlana Yusuf Academy, 1989.
- . “Muqaddima.” In *Qur`an-i muhkam*, `Abd al-Samad Rahmani, 3–14.
- . *Ta`aruf-i makhtutat-i kutub khana-i Dar al-`Ulum Deoband*. 2 vols. Deoband: Dar al-`Ulum, 1970–3.
- Miller, Peter N. *Defining the Common Good: Empire, Religion and Philosophy in Eighteenth-Century Britain*. Cambridge: Cambridge University Press, 1994.
- Minault, Gail. *The Khilafat Movement: Religious Symbolism and Political Mobilization in India*. New York: Columbia University Press, 1982.
- Mirza, Janbaz. *Karwan-i Ahrar*. 7 vols. Lahore: Maktaba-i tabsira, 1977.
- Mitchell, Richard P. *The Society of the Muslim Brothers*. London: Oxford University Press, 1993.
- Mitwalli, Tamir Muhammad Mahmud. *Manhaj al-shaykh Muhammad Rashid Rida fi`l-`aqida*. Jeddah: Dar Majid al-`Asiri, 2004.
- Moosa, Ebrahim. “History and Normativity in Traditional Indian Muslim Thought.” In *Rethinking Islamic Studies: From Orientalism to Cosmopolitanism*, ed. Carl W. Ernst and Richard C. Martin, 281–301. Columbia: University of South Carolina Press, 2010.
- . “Shari`at Governance in Colonial and Postcolonial India.” In *Islam in South Asia in Practice*, ed. Metcalf, 317–25.
- Morris, Dick and Eileen McGann. *Catastrophe*. New York: Harper, 2009.
- Morrison, Robert G. *Islam and Science: The Intellectual Career of Nizam al-din al-Nisaburi*. London: Routledge, 2007.

- Muhammad, Fadl. "Dawr-i hadir ke mujahidin par i'tiradat ka `ilmi ja'iza." *al-Shari`a* 20/5-6 (May-June 2009): 120-44.
- Muhsin al-Mulk. "Khedive ke faysale par ta'ajjub awr afsos." *Aligarh Institute Gazette*, April 22, 1905: 6-7; May 3, 1905: 4-8.
- al-Mulla, Ahmad Salah. *Judhur al-usuliyya al-Islamiyya fi Misr al-mu`asira: Rashid Rida wa majallat al-Manar 1898-1935*. Cairo: Matba`at Dar al-kutub wa'l-watha'iq al-qawmiyya, 2008.
- Musallam, Basim. *Sex and Society in Islam*. Cambridge: Cambridge University Press, 1983.
- al-Nabulusi, `Abd al-Ghani (d. 1731). *al-Jawhar al-kulli sharh `umdat al-musalli*. Ed. Muhammad Ahmad Matar Jasim al-Daylami. Beirut: Dar al-kutub al-`ilmiyya, 2007.
- Nadwi, `Abd al-Bari. "Muqaddima: Bara nadir sangam – dil wa damagh donon ka." In *Makatib-i Gilani*, ed. Minnat Allah Rahmani, 25-78.
- Nadwi, Abu'l-Hasan `Ali (d. 1999). *Purane chiragh*. 2 vols. Lucknow: Maktaba-i firdaws, 1975-80.
- Nadwi, Mas`ud `Alam (d. 1954). *Hindustan ki pahli Islami tahrir*. Lahore: Idara-i matbu`at-i Sulaymani, 1979.
- . *Makatib-i Sayyid Sulayman Nadwi*. Lahore: Maktaba-i chiragh-i rah, 1954.
- . *Mawlana Sindhi awr unke afkar wa khayalat par aik nazar*. Patna: Maktaba-i din wa danish, n.d.
- . "Mawlana `Ubayd Allah Sindhi par aik naqidana ja'iza." In *Mawlana `Ubayd Allah Sindhi awr unke naqid*, Akbarabadi, 261-91.
- . *Muhammad ibn `Abd al-Wahhab: Aik mazlum awr badnam muslih*. Lahore: al-Hilal Publications, 1942.
- . "Sirat-i Sayyid Rashid Rida." *Ma`arif*, 42/5-6 (1938): 325-56, 412-41.
- Nadwi, Muhammad Akram. *Kifayat al-rawi `an al-allama al-shaykh Yusuf al-Qaradawi*. Damascus: Dar al-qalam, 2001.
- Nadwi, Muhammad Ishaq and Shams-i Tabriz Khan. *Ta'rikh-i Nadwat al-`Ulama*. 2 vols. Lucknow: Nizamat-i Nadwat al-`Ulama, 1983-4.
- Nadwi, Mujib Allah. *Mas`ala-i kafa`at*. Lahore: Markaz-i tahqiq, Dayal Singh Trust Library, n.d. (1984).
- Nadwi, Sayyid Salman Husayni Nadwi. *Azadi-yi Hind, haqiqat ya sarab*. Lucknow: Jam`iyyat shabab al-Islam, 2004.
- . *Hamara nisab-i ta`lim kiya ho?* Lucknow: Jami`a Sayyid Ahmad Shahid, 2004.
- Nadwi, Sayyid Sulayman (d. 1953). *Bahadur khawatin-i Islam*. A`zamgarh: Dar al-musannifin, n.d.
- . "Muqaddima." In *Mawlana Sindhi awr unke afkar wa khayalat*, Mas`ud `Alam Nadwi, 7-22.
- . *Shadharat-i Sulaymani*. 2 vols. A`zamgarh: Dar al-musannifin, 1990-7.
- . "Zahiriyya ke `aqa'id awr masa'il awr al-Muhalla li-Ibn Hazm." *Ma`arif* 25/3 (1930): 166-74.
- Nafi, Basheer M. "Fatwa and War: On the Allegiance of the American Muslim Soldiers in the Aftermath of September 11." *Islamic Law and Society* 11 (2004): 78-116.
- Nagina, Ram Saran. *Tahrir-i Ghalla Dher*. Lahore: al-Mahmud Academy, 1994 (first published in 1939).
- Nasr, Seyyed Vali Reza. *Mawdudi and the Making of Islamic Revivalism*. New York: Oxford University Press, 1996.

- Nelson, Matthew. "Dealing with Difference: Religious Education and the Challenge of Democracy in Pakistan." *Modern Asian Studies* 43 (2009): 591–618.
- The News* (Islamabad). "Four Convicts 'Sacrifice' Eight Girls to Rivals for Life." July 24, 2002.
- . "Mianwali Case: Girls' Hand-over Stopped." July 26, 2002.
- . "Strict Law Against 'Vani' Soon: Minister." July 27, 2002.
- . "Mangal Bagh Extends 'Control' to Landikotal." August 29, 2008.
- . "Forwards in FATA." August 15, 2009.
- al-Nisaburi, Nizam al-din al-Hasan (early 14th century). *Ghara'ib al-Qur'an wa ragha'ib al-furqan*. Ed. I. 'A. 'Iwad. 30 vols. Cairo: Mustafa al-Babi al-Halabi, 1962–71.
- Norfolk, Andrew. "Our Followers 'Must Live in Peace Until Strong Enough to Wage Jihad'." *The Times* (London), September 8, 2007.
- Nu'mani, Ghulam Qadir. *Maqalat-i Nu'mani*. Translated into Urdu by Muhammad Idris Qasimi. Hangu: Ghazi Khan Bangash, 2006.
- Nu'mani, Shibli (d. 1914). *al-Kalam, ya ni`ilm-i kalam-i jadid*. Published as volume 2 of idem, *Ilm al-kalam*. Karachi: Mas'ud Publishing House, 1964.
- . *Maqalat-i Shibli*. 8 vols. A'zamgarh: Dar al-musannifin, 1930–8.
- . "Nizarat al-Ma'arif Delhi." *Aligarh Institute Gazette*. April 8, 1914: 7.
- . *Safar-nama-i Rum wa Misr wa Sham*. Lucknow: Anwar al-matabi', n.d.
- See also Husayn, Mushtaq.
- Nussbaum, Martha and Amartya Sen. "Internal Criticism and Indian Rationalist Traditions." In *Relativism: Interpretation and Confrontation*, ed. Michael Krausz, 299–325. Notre Dame: University of Notre Dame Press, 1989.
- Opwis, Felicitas. "Islamic Law and Legal Change: The Concept of Maslaha in Classical and Contemporary Legal Theory." In *Shari'a: Islamic Law in the Contemporary Context*, ed. Abbas Amanat and Frank Griffel, 62–82. Stanford: Stanford University Press, 2007.
- . "Maslaha in Contemporary Islamic Legal Theory." *Islamic Law and Society* 12 (2005): 182–223.
- . *Maslaha and the Purpose of the Law*. Leiden: Brill, 2010.
- Palanpuri, Sa'id Ahmad. *Rahmat Allah al-wasi'a, sharh Hujjat Allah al-baligha*. 5 vols. Deoband: Maktaba-i Hijaz, 2001–4. (The second edition of vol. 1 was published ca. 2004. The first edition of vol. 2 was published in January 2002; the second edition of this volume carries the same date as the first edition. I refer to the different editions with a superscript: 1², 2¹, etc.).
- Pandey, Gyanendra. *The Construction of Communalism in Colonial North India*. Delhi: Oxford University Press, 1990.
- Pearl, David and Werner Minski. *Muslim Family Law*. 3rd edition. London: Sweet & Maxwell, 1998.
- Perlez, Jane and Pir Zubair Shah. "Economic Pillar in Pakistan Area is among Missing: Landowners Stay Out." *The New York Times*, July 28, 2009: A1.
- . "Pakistan Uses Tribal Militias in Tribal War." *The New York Times*, October 24, 2008.
- . "Taliban Enlist an Army of Pakistan's Have-Nots." *The New York Times*, April 17, 2009.
- . "In Violent Karachi, Pakistani Insurgency Finds a Haven and a Forge." *The New York Times*, May 22, 2010: A4.

- Peters, Rudolph. *Crime and Punishment in Islamic Law: Theory and Practice from the Sixteenth to the Twenty-first Century*. Cambridge: Cambridge University Press, 2005.
- Philipp, Thomas. *Ġurġi Zaydan: His Life and Thought*. Beirut: Franz Steiner Verlag, 1979.
- Phulwarwi, Shah Muhammad Ja`far (d. 1982). *al-Din yusr*. Lahore: Idara-i thaqafat-i Islamiyya, 1955.
- _____. *Ijtihadi masa'il*. Lahore: Idara-i thaqafat-i Islamiyya, 1959.
- Pirzada, Sayyid A. S. "Islam and Socialism in the 1970 General Elections: A Case Study of the Jam'iat `Ulama-i-Islam Pakistan." *Journal of the Pakistan Historical Society* 41 (1993): 397-404.
- _____. *The Politics of the Jamiat Ulema-i-Islam Pakistan*. Karachi: Oxford University Press, 2000.
- Popalzai, `Abd al-Jalil. *Hazara ke mazlum `awamm awr `Allama `Abd al-Rahim Popalzai*. Lahore: al-Mahmud Academy, 1994.
- Qadiri, Muhammad Amir Shah. *Tazkira-i `ulama wa mashayikh-i sarhad*. Peshawar: `Azim Publishing House, n.d.
- al-Qaradawi, Yusuf (b. 1926). *Awlawiyyat al-haraka al-Islamiyya fi'l-marhala al-qadima*. Cairo: Maktabat Wahba, 1991.
- _____. *al-Din wa'l-siyasa: Ta'sil wa radd shubuhah*. Cairo: Dar al-shuruq, 2007.
- _____. *Dirasa fi fiqh maqasid al-shari`a bayna'l-maqasid al-kulliyah wa'l-nusus al-juz'iyyah*. Cairo: Dar al-shuruq, 2006.
- _____. *Fatawa mu`asira*. 3 vols. Beirut: al-Maktab al-Islami, 2000-3.
- _____. *al-Fatawa al-shadhdha*. Cairo: Dar al-shuruq, 2010.
- _____. *Fawa'id al-bunuk hiya al-riba al-haram*. Beirut: Mu'assasat al-risala, 1993.
- _____. *Fiqh al-jihad: Dirasa muqarina li-ahkamih wa falsafatih fi daw al-Qur'an wa'l-sunna*. 2 vols. Cairo: Maktabat Wahba, 2009.
- _____. *Fiqh al-jihad: Dirasa muqarina li-ahkamih wa falsafatih fi daw al-Qur'an wa'l-sunna*. 2 vols. 3rd edition. Cairo: Maktabat Wahba, 2010.
- _____. *Fiqh al-zakat*. 2 vols. Beirut: Dar al-irshad, 1969-71.
- _____. *Fusul fi'l-`aqida bayna'l-salaf wa'l-khalaf*. Cairo: Maktabat Wahba, 2005.
- _____. *al-Halal wa'l-haram fi'l-Islam*. Cairo: `Isa al-Babi al-Halabi, 1960.
- _____. *Ibn al-qarya wa'l-kuttab: Malamih sira wa masira*. 3 vols. to date. Cairo: Dar al-shuruq, 2002-6.
- _____. *al-Ijtihad fi'l-shari`a al-Islamiyya*. Kuwait: Dar al-qalam, 1985.
- _____. *al-Ijtihad al-mu`asir bayn al-indibat wa'l-infirat*. Cairo: Dar al-tawzi` wa'l-nashr al-Islamiyya, 1994.
- _____. "Islam al-mar'a duna zawjiha hal yufarraḡ baynahuma?" In *al-Majalla al-`ilmiyya*, European Council for Fatwa and Research, 2: 421-3.
- _____. *Kayfa nata`amal ma`a'l-turath wa'l-tamadhub wa'l-ikhtilaf*. Cairo: Maktabat Wahba, 2001.
- _____. *Malamih al-mujtama` al-islami alladhi nunshiduh*. Beirut: Mu'assasat al-risala, 1996.
- _____. *al-Marja`iyya al-`ulya fi'l-Islam lil-Qur'an wa'l-sunna*. Cairo: Maktabat Wahba, n.d. (1992).
- _____. *Min fiqh al-dawla fi'l-Islam*. Cairo: Dar al-shuruq, 1997.
- _____. *Mushkilat al-faqr wa kayfa `alajaha al-Islam*. Beirut: Dar al-`Arabiyya, n.d. (1967).
- _____. *al-Muslimun wa'l-`awlama*. Cairo: Dar al-tawzi` wa'l-nashr al-Islamiyya, 2000.

- _____. *Nahw wahda fikriyya lil-`amalin lil-Islam*. Cairo: Maktabat Wahba, 1991.
- _____. *Risalat al-Azhar*. Cairo: Maktabat Wahba, 1984.
- _____. "Shar'iyat al-`amaliyyat al-istishhadiyya." In *Shubuhah hawl al-`amaliyyat al-istishhadiyya*, ed. Qaradawi et al., 6–22 (*Fatawa mu`asira*, 3: 518–26).
- _____. *al-Shaykh Abu'l-Hasan `Ali Nadwi kama `araftuhu*. Damascus: Dar al-qalam, 2001.
- _____. *al-Siyasa al-shar'iyya fi daw nusus al-shari`a wa maqasidiha*. Beirut: Mu'assasat al-risala, 2000.
- _____. "Taqdim." In *al-Qawl al-tamam bi-ithbat al-tafwid madhhaban lil-salaf al-kiram, `Asri*, 7–18.
- _____. "Tashih lazim." http://www.qaradawi.net/site/topics/printArticle.asp?cu_no=2&item_no=7850&version=1 (accessed January 22, 2011).
- _____. *Usul al-`amal al-khayri fi'l-Islam fi daw al-nusus wa'l-maqasid al-shar'iyya*. Cairo: Dar al-shuruq, 2008.
- al-Qaradawi, Yusuf, et al. *Fatawa fiqhiyya fi'l-masa'il al-jinsiyya*. N.p.: al-Dar al-bayda, 2007.
- _____. *Fatawa al-nisa li-ashab al-fadila Yusuf al-Qaradawi, Mahmud Shaltut, `Abd al-Halim Mahmud, Muhammad Mutawalli al-Sha`rawi, Ahmad Hamani*. Ed. Nasr Salman and Su`ad Suthi. Beirut: Mu'assasat al-risala, 2007.
- _____. *Shubuhah hawl al-`amaliyyat al-istishhadiyya*. Miknas, 2002.
- al-Qarafī, Shihab al-din (d. 1285). *Sharh tanqih al-fusul*. Ed. Taha `Abd al-Ra'uf Sa'd Cairo: Dar al-fikr, 1973.
- Qarshi, `Abd al-Majid. *Islami khutbat*. Lucknow: Idara-i tabligh [wa] isha't, n.d.
- _____. *Jagat maharishi: Sirat-i nabawi par Hindu `ulama ke ath lecturon ka be-mithal majmu`a*. Lahore: Secretary Sirat Committee, 1934.
- Qasimi, Mujahid al-Islam (d. 2002). *Fiqh al-mushkilat: Buhuth fiqhiyya mukhtara*. Karachi: Idarat al-Qur'an wa'l-`ulum al-Islamiyya, 2000.
- _____. Ed. *Buhuth fiqhiyya min al-Hind*. Beirut: Dar al-kutub al-`ilmiyya, 2003.
- _____. Ed. *Currensiyon ka tabadala awr Hindustan main insurance*. Deoband: Kutub khana-i na'imiyya/Islamic Fiqh Academy, 2006.
- _____. Ed. *Darurat wa hajat ka ahkam-i shar'iyya main i`tibar*. Karachi: Idarat al-Qur'an wa'l-`ulum al-Islamiyya, 2001.
- _____. Ed. *Dirasat fiqhiyya wa `ilmiyya*. Beirut: Dar al-kutub al-`ilmiyya, 2003.
- _____. Ed. *Larke awr larkiyon ke nikah ka ikhtiyar: Wilayat-i nikah ka ta`aruf, uski hudud awr shar'i ahkam*. Karachi: Idarat al-Qur'an wa'l-`ulum al-Islamiyya, 2001.
- _____. Ed. *Mashrut nikah*. Karachi: Idarat al-Qur'an wa'l-`ulum al-Islamiyya, n.d. (ca. 1992).
- See also Islamic Fiqh Academy.
- Qasmi, Ali Usman. "God's Kingdom on Earth? Politics of Islam in Pakistan, 1947–1969." *Modern Asian Studies* 44 (2010): 1197–253.
- Qureshi, M. Naeem. *Pan-Islam in British Indian Politics*. Leiden: Brill, 1999.
- al-Qurtubi, Abu `Abdallah Muhammad b. Ahmad (d. 1273). *Al-Jami` li-ahkam al-Qur'an*. 20 vols. Cairo: Dar al-katib al-`arabi lil-tiba'a wa'l-nashr, 1967.
- Qutb, Sayyid (d. 1966). *al-`Adala al-ijtima'iyya fi'l-Islam*. 2nd edition. Cairo: Dar misr lil-tiba'a, n.d. (ca. 1950).
- _____. *Fi Zilal al-Qur'an*. 30 vols. in 8. 5th edition. N.p., 1966–7.
- _____. *al-Islam wa mushkilat al-hadara*. N.p., n.d. (1967).
- _____. *Ma`alim fi'l-tariq*. Cairo: Dar al-shuruq, 1973.

- . *Sayyid Qutb and Islamic Activism: A Translation and Critical Analysis of Social Justice in Islam*. Translated by William E. Shepard. Leiden: Brill, 1996.
- Rahman, Fazlur (d. 1988). "The Controversy over the Muslim Family Laws." In *South Asian Politics and Religion*, ed. Donald E. Smith, 414–27. Princeton: Princeton University Press, 1966.
- . *Islam*. 2nd edition. Chicago: University of Chicago Press, 1979.
- . *Islam and Modernity: Transformation of an Intellectual Tradition*. Chicago: University of Chicago Press, 1982.
- . "Muslim Modernism in the Indo-Pakistan Subcontinent." *Bulletin of the School of Oriental and African Studies* 21 (1958): 82–99.
- . "Some Islamic Issues in the Ayyub Khan Era." In *Essays on Islamic Civilization Presented to Niyazi Berkes*, ed. Donald P. Little, 284–302. Leiden: E. J. Brill, 1976.
- Rahman, Tariq. "Injustice and Talibanisation." *Dawn*, April 30, 2009.
- Rahmani, `Abd al-Samad. *Qur'an-i muhkam*. Deoband: Majlis-i ma'arif al-Qur'an, 1966.
- Rahmani, Khalid Sayf Allah. "Hayat-i Mujahid." In *Faqih al-`asr*, ed. Rahmani, 21–235.
- . "Fiqh-i Islami main darurat wa hajat ki ri'ayat awr uske hudud wa dawabit." In *Darurat wa hajat*, ed. Qasimi, 58–92.
- . "Islamic Fiqh Academy, India: Na'e masa'il ke hall ke silsele main us-ka nuqta-i nazar, tariqa-i kar awr khidmat." In *Ijtima'i ijtihaad: Tasawwur, irtiqa awr `amali suratain*, ed. Muhammad Tahir Mansuri, 221–65. Islamabad: Islamic Research Institute, 2007.
- . *Kitab al-fatawa*. 6 vols. Deoband: Kutub khana-i Na'imiyya, 2005.
- . "Maqasid-i shari'at awr na'e masail." In *Maqasid-i shari'at: Ta'aruf awr tatbiq*, 275–320. Delhi: IFA Publications, 2004.
- . "Muqaddima." In *Maqasid-i shari'at: Ta'aruf awr tatbiq*, 7–10.
- . Ed. *Faqih al-`asr: Hadrat Mawlana Qadi Mujahid al-Islam Qasimi: Hayat wa khidmat, afkar wa athar*. Hyderabad: Bayt al-`ilm, 2003.
- Rahmani, Minnat Allah. Ed. *Makatib-i Gilani*. Vol. 1. Mongir: Dar al-isha'at-i Rahmani, 1972.
- Raju, S. "Anti-Vastanvi Wave: Jamiat Trying to Regain Prominence." *The Hindustan Times* (Delhi), January 28, 2011.
- Raleigh, Thomas. Ed. *Lord Curzon in India*. London: Macmillan and Co., 1906.
- Ramadan, Tariq. *To be a European Muslim*. Leicester: The Islamic Foundation, 1999.
- . *Radical Reform: Islamic Ethics and Liberation*. New York: Oxford University Press, 2009.
- al-Ramli, Shams al-din (d. 1596). *Nihayat al-muhtaj ila sharh al-minhaj*. 8 vols. Cairo: Mustafa al-Babi al-Halabi, 1967.
- Ramnath, Maia. *Haj to Utopia: How the Ghadar Movement Charted Global Radicalism and Attempted to Overthrow the British Empire*. Berkeley: University of California Press, 2011.
- Rapoport, Yossef. *Marriage, Money and Divorce in Medieval Islamic Society*. Cambridge: Cambridge University Press, 2005.
- Rapoport, Yossef and Shahab Ahmed. Ed. *Ibn Taymiyya and His Times*. Karachi: Oxford University Press, 2010.
- al-Rasheed, Madawi. *Contesting the Saudi State: Islamic Voices from a New Generation*. Cambridge: Cambridge University Press, 2007.

- Rashid, Ahmed. *Taliban: Militant Islam, Oil, and Fundamentalism in Central Asia*. New Haven: Yale University Press, 2000.
- Rawls, John. *Political Liberalism*. New York: Columbia University Press, 1996.
- Raz, Joseph. "Authority and Justification." In *Authority*, ed. Joseph Raz, 115–41. New York: New York University Press, 1990.
- . *Between Authority and Interpretation: On the Theory of Law and Practical Reason*. Oxford: Oxford University Press, 2009.
- Raza, Malik Tahseen. "Woman and Daughter Stripped, Thrashed." *Dawn*, July 5, 2010.
- Razi, Fakhr al-din (d. 1210). *al-Tafsir al-kabir*. 32 vols. Tehran, N.p., n.d.
- Reid, Donald Malcolm. *Cairo University and the Making of Modern Egypt*. Cambridge: Cambridge University Press, 1990.
- Reetz, Dietrich. *Islam in the Public Sphere: Religious Groups in India, 1900–1947*. Delhi: Oxford University Press, 2006.
- Rida, Muhammad Rashid (d. 1935). "al-As'ila al-barisiyya." In *Kitab muhawarat al-muslih wa'l-muqallid*, Rida, 132–40.
- . "al-Ishtirakiyya wa'l-din." *al-Manar* 1 (1898): 945–9.
- . "Ishtirat al-wali fi'l-nikah," *al-Manar* 7 (1904): 457–62.
- . "Jawab al-manar." *al-Manar* 8 (1905–6): 936–45.
- . "Kalima fi fawa'id *Kitab al-mughni*." In *al-Mughni li-Ibn Qudama*, ed. Muhammad Rashid Rida, 1: 14–35. 3rd printing. Cairo: Dar al-manar, 1948.
- . *al-Khilafa aw al-imama al-'uzma*. Cairo: Matba'at al-Manar, 1922–3.
- . "al-Khutba al-ra'isiyya fi Nadwat al-'Ulama li-sahib al-Manar." *al-Manar* 15 (1912): 331–41.
- . "Khutbat iftitah al-ijtima' al-sanawi al-'amm li-jama'at al-da'wa wa'l-irshad." *al-Manar* 15 (1912): 921–9.
- . *Kitab muhawarat al-muslih wa'l-muqallid*. Cairo: Matba'at majallat al-manar al-Islamiyya, 1906.
- . *al-Manar wa'l-Azhar*. Cairo: Matba'at al-Manar, 1934.
- . "Muqaddimat al-kitab." In *Miftah kunuz al-sunna*, A. J. Wensinck, trans. Muhammad Fu'ad 'Abd al-Baqi. Lahore: Suhayl Academy, 1987 (first published from Cairo: Matba'at Misr, 1934).
- . *Nida lil-jins al-latif*. Cairo: Matba'at al-manar, 1932.
- . *al-Riba wa'l-mu'amalat fi'l-Islam*. Port Sa'id: Maktabat al-thaqafa al-diniyya, 2001. Also published in *al-Manar* 30 1929–30.
- . "al-Rijal wa'l-nisa." *al-Manar* 4 (1901): 481–9.
- . *Tafsir al-Qur'an al-hakim, al-shahir bi-Tafsir al-manar*. 12 vols. 3rd edition. Cairo: Dar al-manar, 1947–54.
- . "al-Tarbiya wa wajh al-haja ilayha wa taqasimuha . . . : khutba irtijaliyya ulqiyat fi madrasat al-'ulum al-kulliyya bi-'Alikarh." *al-Manar* 15 (1912): 567–86.
- . *Ta'rikh al-ustadh al-imam al-Shaykh Muhammad 'Abduh*. 3 vols. Cairo: Dar al-fadila, 2003.
- . "Ujala min rihlat al-Hind." *al-Manar* 15 (1912): 449–58, 619–27.
- . *al-Wahhabiyyun wa'l-Hijaz*. Cairo: Matba'at al-Manar, 1926.
- . *al-Wahy al-Muhammadi*. 5th printing. Cairo: Dar al-manar, 1955.
- . *Yusr al-Islam wa usul al-tashri' al-'amm*. Cairo: al-Mu'tamar al-Islami, 1956. First published in 1928.

- Ridwi, Sayyid Mahbub. *Ta'rikh-i Dar al-'Ulum Deoband*. 2 vols. Deoband: Idara-i ihtimam-i Dar al-'Ulum Deoband, 1977–8.
- Riexinger, Martin. "How Favorable is Puritan Islam to Modernity" In *Colonialism, Modernity, and Religious Identities: Religious Reform Movements in South Asia*, ed. Gwilym Beckerlegge, 147–65. Delhi: Oxford University Press, 2008.
- . *Sana'ullah Amritsari (1868–1948) und die Ahl-i-Hadis im Punjab unter britischer Herrschaft*. Würzburg: Ergon, 2004.
- Rodgers, Daniel T. *Age of Fracture*. Cambridge: Harvard University Press, 2011.
- Romero, Simon. "Qatar Finds a Currency of its Own: Natural Gas." *The New York Times*, December 22, 2005.
- Roy, Olivier. *Globalized Islam*. New York: Columbia University Press, 2004.
- Rubin, Alissa J. "Suicide Attack Continues Afghan Trend." *The New York Times*, February 27, 2011: A10.
- Rutherford, Bruce. *Egypt after Mubarak: Liberalism, Islam, and Democracy in the Arab World*. Princeton: Princeton University Press, 2008.
- Ryad, Umar. *Islamic Reformism and Christianity: A Critical Reading of the Works of Muhammad Rashid Rida and His Associates (1898–1935)*. Leiden: Brill, 2009.
- Saleh, Walid A. *The Formation of the Classical Tafsir Tradition: The Qur'an Commentary of al-Tha'labi (427/1035)*. Leiden: Brill, 2004.
- Salvatore, Armando. *Islam and the Political Discourse of Modernity*. Reading: Ithaca Press, 1997.
- . *The Public Sphere: Liberal Modernity, Catholicism, Islam*. New York: Palgrave Macmillan, 2007.
- . "Qaradawi's Maslaha: From Ideologue of the Islamic Awakening to Sponsor of Transnational Public Islam." In *Global Mufti*, eds. Gräf and Skovgaard-Petersen, 239–50.
- Sami` al-Haqq. *Islam awr `asr-i hadir*. Akora Khattak: Mu`tamar al-musannifin, 1976.
- al-San`ani, `Abd al-Razzaq (d. 827). *al-Musannaf*. Ed. Habib al-Rahman al-A`zami. Beirut: al-Maktab al-Islami, 1970–2.
- al-San`ani, Ibn al-Amir (d. 1769). "Bahth fi qital al-kuffar." In *Dhakha'ir `ulama al-Yaman*, ed. Muhammad `Abd al-Karim al-Jurafi, 155–63. Beirut: Mu`assasat dar al-kitab al-hadith, 1990.
- Sanbhali, Burhan al-din. *Mu`asharati masa'il din-i fitrat ki rawshani main*. 1st edition. Lucknow: Majlis-i tahqiqat wa nashriyyat-i Islam, 1975; 6th edition, 2009.
- Sangi, Sohail. "Sindhi Women Publicly Announce Free-Will Marriages." *Dawn*, September 3, 2011.
- al-Sanhuri, `Abd al-Razzaq (d. 1971). *Masadir al-haqq fi'l-fiqh al-Islami*. 6 vols. 3rd edition. Cairo: Ma`had al-buhuth wa'l-dirasat al-'Arabiyya, 1967.
- al-Sarakhsi, Muhammad b. Ahmad (d. 1090). *Sharh kitab al-siyar al-kabir lil-imam Muhammad b. al-Hasan al-Shaybani*. Ed. Muhammad Hasan Isma'il. 5 vols. Beirut: Dar al-kutub al-'ilmiyya, 1997.
- Sarwar, Muhammad (d. 1983). Ed. *Ifadat wa malfuzat-i hadrat mawlana `Ubayd Allah Sindhi*. Lahore: Sindh Sagar Academy, 1972.
- . *Mawlana `Ubayd Allah Sindhi: Halat-i zindagi, ta`limat, awr siyasi afkar*. Lahore: Sindh Sagar Academy, 1976 (first published in 1943).
- See also Sindhi, `Ubayd Allah.
- Schacht, Joseph. *An Introduction to Islamic Law*. Oxford: Clarendon Press, 1964.

- Schimmel, Annemarie. *Mystical Dimensions of Islam*. Chapel Hill: University of North Carolina Press, 1975.
- Schmemmann, Serge. "Two Suicide Bombings in Israel Kill 25 and Hurt 77, Highest Such Toll." *The New York Times*, February 26, 1996: A1.
- Schulze, Reinhard. *Islamischer Internationalismus im 20. Jahrhundert*. Leiden: Brill, 1990.
- Sedgwick, Mark. *Muhammad `Abduh*. Oxford: Oneworld, 2010.
- Seoharwi, Hifz al-Rahman (d. 1962). *Akhlaq awr falsafa-i akhlaq*. Delhi: Nadwat al-musannifin, 1964.
- . *Islam ka iqtisadi nizam*. Lahore: Mushtaq Book Corner, n.d. (This edition is a reprint of the fourth, 1951, edition).
- . *Qasas al-Qur'an*. 4 vols. Delhi: Nadwat al-musannifin, 1965 (first published in 1941).
- Shafi`, Mufti Muhammad (d. 1976). *Dastur-i Qur'ani*. Karachi: Dar al-`Ulum, 1953.
- . *Imdad al-muftin*. Karachi: Dar al-isha`at, 2001. This is the second volume of a two-volume work titled *Fatawa Dar al-`Ulum Deoband* and edited by Shafi`; the first volume (titled *`Aziz al-fatawa*) comprises a selection from the fatwas of `Aziz al-Rahman `Uthmani. Shafi`s *Fatawa Dar al-`Ulum Deoband* is to be distinguished from the similarly titled fifteen-volume *Fatawa Dar al-`Ulum Deoband*, which is an exhaustive compilation of the available fatwas of `Aziz al-Rahman `Uthmani. To distinguish the two works, I will refer to the fifteen-volume collection as *Fatawa Dar al-`Ulum Deoband* and Shafi`s volume as *Imdad al-muftin*.
- . *Jawahir al-fiqh*. 2 vols. Karachi: Maktaba-i Dar al-`Ulum, 1975.
- al-Shafi`i, Muhammad b. Idris (d. 820). *al-Risala*. Ed. Ahmad Muhammad Shakir. Cairo: Dar al-turath, 1979.
- Shafir, Gershon and Yoav Peled. *Being Israeli: The Dynamics of Multiple Citizenship*. Cambridge: Cambridge University Press, 2002.
- Shah, Sayed Wiqar Ali. *Ethnicity, Islam, and Nationalism: Muslim Politics in the North-West Frontier Province 1937–1947*. Karachi: Oxford University Press, 1999.
- Shaham, Ron. "An Egyptian Judge in a Period of Change: Qadi Ahmad Muhammad Shakir, 1892–1958." *Journal of the American Oriental Society* 119 (1999): 440–55.
- . *Family and the Courts in Modern Egypt: A Study Based on Decisions by the Shari`a Courts 1900–1955*. Leiden: Brill, 1997.
- Shahid, Saleem. "'Jirga Ordered Killing of Two Women?'" *Dawn*, September 18, 2008.
- Shahjahanpuri, Abu Salman. Ed. *Makatib-i Mawlana `Ubayd Allah Sindhi*. Karachi: Mawlana `Ubayd Allah Sindhi Academy, 1997.
- . Ed. *Maqalat-i Mawlana `Ubayd Allah Sindhi Seminar Karachi 1994*. Karachi: Mawlana `Ubayd Allah Sindhi Academy, 1994.
- . Ed. *Mujahid-i millat mawlana Hifz al-Rahman Seoharwi: Aik siyasi mutala`a*. Lahore: Jam`iyyat Publications, 2001.
- See also* Sindhi, `Ubayd Allah.
- Shaikh, Farzana. *Community and Consensus in Islam: Muslim Representation in Colonial India, 1860–1947*. Cambridge: Cambridge University Press, 1989.
- Shaikh, Muhammad Hajjan. *Mawlana Ubaid Allah Sindhi: A Revolutionary Scholar*. Islamabad: National Institute of Historical and Cultural Research, 1986.
- Shaltut, Mahmud (d. 1966). *al-Fatawa*. 7th printing. Cairo: Dar al-shuruq, 1974.
- . *al-Islam `aqida wa shari`a*. Cairo: Dar al-shuruq, 1972.
- . *Tafsir al-Qur'an al-karim: al-ajza al-`ashara al-`ula*. 4th printing. Cairo, n.d.

- Shamsi, Abu'l-Kalam Qasimi. *Tadhkira-i `ulama-i Bihar*. 2 vols. Sitamurhi: Jami`a Islamiyya, 1995–2006.
- al-Sharbasi, Ahmad. *Rashid Rida sahib al-manar: `Asruhu wa hayatuhu wa masadir thaqafatihi*. Cairo: al-Majlis al-`a'la lil-shu'un al-Islamiyya, 1970.
- Sharma, Shalini. "Developing a Communist Identity: The Case of the Naujawan Bharat Sabha." *Journal of Punjab Studies* 14 (2007): 167–86.
- Sharudi, Muhammad Ya`qub. *Husaynat al-fatawa*. Quetta: Jami`a Rashidiyya, 2002.
- al-Shatibi, Abu Ishaq Ibrahim (d. 1388). *al-ʿItisam*. 3 vols. Cairo: al-Maktaba al-tijariyya, n.d. (ca. 1914).
- . *al-Muwafaqat fi usul al-shari`a*. 4 vols. Cairo: al-Maktaba al-tijariyya, n.d.
- al-Shawkani, Muhammad b. `Ali (d. 1834). *Fath al-qadir*. Ed. `Abd al-Rahman `Umayra. 6 vols. Cairo: Dar al-wafa, 1994.
- Shepard, William E. See Qutb, Sayyid.
- al-Shuruq (Cairo). "Bayan sakhin lil-Azhar yaruddu `ala hiwar al-shaykh al-Qaradawi." February 21, 2012. <http://www.shorouknews.com/news/view.aspx?cdate=21022012&id=a4foaf53-e733-418a-996a-8414e536ff02> (accessed February 21, 2012).
- al-Siba'i, Mustafa. *Ishtirakiyyat al-Islam*. 2nd edition. Damascus: Dar al-matbu`at al-`arabiyya, 1960.
- . *al-Mar'a bayn al-fiqh wa'l-qanun*. Damascus: Matba`at jami`at Dimashq, 1962.
- Siddiqi, Ayesha. "Deadly Social Change." *Dawn* (Karachi), May 1, 2009.
- Siddiqi, Mazheruddin. *Modern Reformist Thought in the Muslim World*. Islamabad: Islamic Research Institute, 1982.
- Sikand, Yoginder. "Interview with Waris Mazhari on Central Madrasa Board and Madrasa Reforms in India." http://www.theamericanmuslim.org/tam.php/features/articles/interview_with_waris_mazha... (accessed October 4, 2007).
- . "Madrasas and Charges of 'Terrorism': Interview with Maulana Salman Nadwi." http://www.theamericanmuslim.org/tam.php/features/articles/madrasas_and_charges_of_te... (posted October 29, 2007; accessed March 16, 2008).
- Sindhi, `Ubayd Allah (d. 1944). *Afkar-i Wali Allahi – shu`ur wa agahi: Ifadat-i imam-i inqilab Mawlana `Ubayd Allah Sindhi*. Lahore: `Aziz Publications, n.d.
- . *Dhati Diary*. Lahore: Adabistan, 1946.
- . *Ilham al-Rahman fi tafsir al-Qur'an*. Compiled by Musa Jar Allah [Bigiyef]. Karachi: Bayt al-hikma, n.d. (This work is based on lectures delivered on the Qur'an in 1937–8).
- . *Kabul main sat sal*. Ed. Muhammad Sarwar. Lahore: Sindh Sagar Academy, n.d. (originally compiled in 1933).
- . "Khud-nawisht halat-i zindagi" (compiled in 1938). In *Kabul main sat sal*, Sindhi, 144–60.
- . *Khutbat wa maqalat-i Mawlana `Ubayd Allah Sindhi*. Ed. Muhammad Sarwar. Lahore: Sindh Sagar Academy, 1970.
- . *Qur'an-i pak ka mutala`a kaise karen?* Lahore: Nashirin-i Paisa akhbar, 1959
- . *Qur'ani shu`ur-i inqilab*. Compiled and edited by Shaykh Bashir Ahmad Ludhyanawi and Ghazi Khuda Bakhsh; revised by `Abd al-Ghani Qasimi. Lahore: Makki Dar al-kutub, 1997.
- . *Shah Wali Allah awr unka falsafa*. Compiled and edited by Muhammad Sarwar. Lahore: Sindh Sagar Academy, 1998 (first published in 1944).
- . *Shah Wali Allah awr unki siyasi tahrik*. Compiled and edited by Muhammad Sarwar. Lahore: Sindh Sagar Academy, 1970 (first published in 1944).

- . *Tafsir al-maqam al-mahmud*. Compiled by `Abd Allah Laghari; ed. Mufti `Abd al-Qadir. Vol. 1. Lahore: Makki Dar al-kutub, 1997 (originally compiled in 1935–6).
- . *al-Tamhid li-ta`rif a`immat al-tajdid*. Ed. Ghulam Mustafa al-Qasimi. Jamshoro: Sindh Adabi Board, 1976.
- . *Urdu Sharh-i Hujjat Allah al-baligha*. Lahore: Maktaba-i Bayt al-hikma, 1950.
See also Shahjahanpuri, Abu Salman.
- Skovgaard-Petersen, Jakob. *Defining Islam for the Egyptian State: Muftis and Fatwas of the Dar al-Ifta*. Leiden: Brill, 1997.
- Slackman, Michael. “Affluent Qataris Seek What Money Cannot Buy.” *The New York Times*, May 13, 2010: A7.
- Smith, Wilfred Cantwell. *Modern Islam in India: A Social Analysis*. London: Victor Gollancz, 1946.
- Soomro, Nur Muhammad. “Police awr ba-athar afrad ka gath-jor.” *Express* (Lahore), July 26, 2010.
- Starrett, Gregory. *Putting Islam to Work*. Berkeley: University of California Press, 1998.
- Stewart, Devin J. *Islamic Legal Orthodoxy: Twelver Shiite Responses to the Sunni Legal System*. Salt Lake City: University of Utah Press, 1998.
- Stout, Jeffrey. *Blessed are the Organized: Grassroots Democracy in America*. Princeton: Princeton University Press, 2010.
- al-Tabari, Abu Ja`far Muhammad b. Jarir (d. 923). *Tafsir al-Tabari, Jami` al-bayan `an ta`wil ay al-Qur`an*. Ed. Mahmud Muhammad Shakir and Ahmad Muhammad Shakir. 16 vols. Cairo: Dar al-ma`arif, 1950–60.
- . *Ta`rikh al-rusul wa`l-muluk*. Ed. M. J. de Goeje et al. Leiden: E. J. Brill, 1879–1901.
- Talimah, `Isam. “Tajawaztum fi haqq al-Azhar.” *al-Shuruq*, February 26, 2012. <http://www.shorouknews.com/columns/view.aspx?cdate=26022012&id=00ca62ce-b41b-470d-a443-22b1df16340b> (accessed February 26, 2012).
- “Taqrir ba`that al-Hind.” *Majallat al-Azhar* 8/4–10 (1937): 302–11, 375–81, 444–51, 520–7, 586–98, 659–70, 732–42; 9/1 (1938): 60–70.
- Tasin, Muhammad. *Mutabadil sudi nizam ke da`we*. Karachi: Gosha-i `ilm wa taḥqiq, 2001.
- Tavernise, Sabrina. “Taliban Seize on Organized Crime for Fast Cash in Pakistan.” *The New York Times*, August 29, 2009.
- Tayyib, Qari Muhammad (d. 1983). *Ijtihad awr taqlid*. Lahore: Idara-i Islamiyyat, 1978.
- . “Nur al-anwar al-ustadh al-Sayyid Muhammad Anwarshah al-Kashmiri. . . .” In *Taswir-i Anwar*, ed. Mas`udi, 366–94.
- Thanawi, Ashraf `Ali (d. 1943). *al-Hila al-najiza lil-halilat al-`ajiza*. First published in 1933; another edition, with rearranged contents, published as *Ahkam-i talaq wa nizam-i shar`i `adalat, ya`ni al-hila al-najiza-i jadid*, ed. Khurshid Hasan Qasimi. This edition was first published in India in 1993 and reprinted Lahore: al-Faysal, 1996. All references are to the Lahore 1996 reprint.
- . *Imdad al-fatawa*. Ed. Mufti Muhammad Shafi`. 6 vols. Karachi: Maktaba-i Dar al-`Ulum, 2004.
- . *al-Iqtisad fi`l-taqlid wa`l-ijtihad*. Lahore: Idara-i Islamiyyat, 1985.
- Tripp, Charles. *Islam and the Moral Economy: The Challenge of Capitalism*. Cambridge: Cambridge University Press, 2006.
- Troll, Christian W. *Sayyid Ahmad Khan: A Reinterpretation of Muslim Theology*. Delhi: Vikas, 1978.
- Tucker, Judith. *In the House of the Law: Gender and Islamic Law in Ottoman Syria and Palestine*. Berkeley: University of California Press, 1998.

- al-Tufi, Najm al-din (d. 1316). "Adillat al-shar` wa taqdim al-maslaha fi'l-mu`amalat `ala'l-nass." *al-Manar* 9 (1906-7): 745-70.
 See also Zayd, Mustafa.
- Turam, Berna. 2007. *Between Islam and the State: The Politics of Engagement*. Stanford: Stanford University Press, 2007.
- Uthmani, `Aziz al-Rahman (d. 1928). *Fatawa Dar al-`Ulum Deoband*. Ed. Muhammad Zafir al-din Miftahi. 12 vols. Akora Khattak: Faruqi kutub khana, 2007 (first published 1962-72). Vols. 13-15 edited by Muhammad Amin Palanpuri. Deoband: Maktaba-i Dar al-`Ulum, 2009-10.
- Uthmani, Fudayl al-Rahman. *Mufti `Aziz al-Rahman `Uthmani*. Malir Kotla: Jami`a Dar al-Salam, 1991. In South Asia Ephemera Collection, I-CLR 84.8.
- Uthmani, Muhammad `Imran Ashraf. *Shirkat wa mudarabat `asr-i hadir men*. Karachi: Idarat al-ma`arif, 2001.
- Uthmani, Muhammad Taqi. "Fadilat al-duktur Yusuf al-Qaradawi kama a`rifuhu." In *Yusuf al-Qaradawi: Kalimat fi takrimihi wa buhuth fi fikrihi wa fiqhili*. 2 vols. 1: 77-80. Cairo: Dar al-salalm, 2004.
- _____. *Fatawa-i `Uthmani*. Ed. Muhammad Zubayr Haqq Nawaz. 2 vols. Karachi: Maktaba-i ma`arif al-Qur`an, 2006.
- _____. *Hamara ma`ashi nizam*. Karachi: Maktaba-i Dar al-`Ulum, 1994.
- _____. *Introduction to Islamic Finance*. Hague: Kluwer Law International, 2002.
- _____. *Islah-i mu`ashara*. Karachi: Maktaba-i Dar al-`ulum, 1994.
- _____. *Islam awr jadid ma`ashi masa'il*. Ed. Mufti Mahmud Ahmad. 8 vols. Lahore: Idara-i Islamiyyat, 2008.
- _____. *Islam awr jiddat-pasandi*. Karachi: Maktaba-i Dar al-`Ulum, 1999.
- _____. *Jahan-i dida: Bis mulkon ka safar-nama*. Karachi: Idarat al-ma`arif, 1996.
- _____. "Khutba-i sadarat." In *Currensiyon ka tabadala*, ed. Qasimi, 45-55.
- _____. *Milkiyyat-i zamin awr us-ki tahdid*. 2nd edition. Karachi: Maktaba-i Dar al-`ulum, 1993.
- _____. *Nifadh-i shari`at awr us-ke masa'il*. Karachi: Maktaba-i Dar al-`Ulum, 1993.
- _____. *Tabsire*. Ed. Muhammad Hanif Khalid. Karachi: Maktaba-i ma`arif al-Qur`an, 2005.
- _____. *Takmilat fath al-mulhim*. 3 vols. Karachi: Maktaba-i Dar al-`Ulum, 1986-91.
- _____. *Taqlid ki shar`i haythiyyat*. Karachi: Maktaba-i Dar al-`Ulum, 1993.
- Uthmani, Muhammad Zubayr Ashraf. *Jadid ma`ashi nizam men Islami qanun-i ijara*. Karachi: Idarat al-ma`arif, 2005.
- Uthmani, Zafar Ahmad (d. 1974). "Ghayr Islami mamalik main sud wa qimar wa-ghayrah ka hukm." *Ma`arif* 56/5 (1945): 107-13; *ibid.* 58/3 (1946): 217-22; *ibid.*, 58/5 (1946): 343-59; *ibid.*, 59/1 (1947): 62-3.
- _____. *I la al-sunan*. Ed. Hazim al-Qadi. 22 vols. Beirut: Dar al-kutub al-ilmiyya, 1997.
- _____. "Kashf al-duja`an wajh al-riba." In *Imdad al-fatawa*, Thanawi, 3: 179-301.
- Uthmani, Zafar Ahmad and `Abd al-Karim Gumthallawi. *Imdad al-ahkam*. 4 vols. Karachi: Maktaba-i Dar al-`Ulum, 2004-7.
- Wali Allah, Shah (d. 1762). *al-Budur al-bazigha*. Ed. Saghir Hasan Ma`sumi. Hyderabad: Shah Wali Allah Academy, 1970.
- _____. *Hujjat Allah al-baligha*. 2 vols. Cairo: Dar al-turath, 1936.
- _____. *al-Insaf fi bayan sabab al-ikhtilaf*. Ed. Muhibb al-din al-Khatib. Cairo: al-Matba`a al-salafiyya, 1965.

- _____. *ʿIqd al-jid fi ahkam al-ijtihad waʿl-taqlid*. Ed. Muhibb al-Din al-Khatib. Cairo: al-Maktaba al-salafiyya, 1965.
- _____. *Izalat al-khafa ʿan khilafat al-khulafa*. 2 vols. Lahore: Suhayl Academy, 1976.
- _____. *al-Musawwa sharh al-Muwatta*. Beirut: Dar al-kutub al-ʿilmiyya, 1983.
- _____. *Musawwa Musaffa, sharh Muwatta Imam Malik*. 2 vols. Karachi: Muhammad ʿAli karkhana-i Islami kutub, n.d. (1980).
- _____. *al-Qurʿan al-karim ba tarjama ba-zaban-i farsi*. Islamabad: Daʿwa Academy, 2001.
- _____. *Qurrat al-ʿaynayn fi tafdil al-shaykhayn*. Lahore: al-Maktaba al-salafiyya, 1976.
- _____. *al-Tafhimat al-Ilahiyya*. Ed. Ghulam Mustafa al-Qasimi. 2 vols. Hyderabad: Shah Wali Allah Academy, 1967–70.
See also Hermansen, Marcia.
- Walker, Pamela J. *Pulling the Devil’s Kingdom Down: The Salvation Army in Victorian Britain*. Berkeley: University of California Press, 2001.
- Walzer, Michael. *The Company of Critics: Social Criticism and Political Commitment in the Twentieth Century*. New York: Basic Books, 1988.
- _____. *Interpretation and Social Criticism*. Cambridge: Harvard University Press, 1987.
- Warner, Michael. *Publics and Counterpublics*. New York: Zone Books, 2002.
- Wasti, Tahir. *The Application of Criminal Law in Pakistan: Sharia in Practice*. Leiden: Brill, 2009.
- Weiss, Bernard. “The Madhhab in Islamic Legal History.” In *The Islamic School of Law*, ed. Peri Bearman et al., 1–9.
- _____. *The Spirit of Islamic Law*. Athens: University of Georgia Press, 1998.
- Weitz, Lev. “The Boundaries of Tradition: Islamic Legal Opinions on Suicide Bombing.” Unpublished paper.
- Wensinck, A. J., et al., *Concordance et indices de la tradition musulmane*. 8 vols. Leiden: Brill, 1936–88.
- Wickham, Carrie Rosefsky. *Mobilizing Islam: Religion, Activism, and Political Change in Egypt*. New York: Columbia University Press, 2002.
- Wizarat al-awqaf, Kuwait. *al-Mawsuʿa al-fiqhiyya*. 44 vols. Kuwait: Wizarat al-awqaf waʿl-shuʿun al-Islamiyya, 1987–2006.
- _____. *Mawsuʿa fiqhiyya*. Urdu translation. 12 vols. to date. Delhi: Islamic Fiqh Academy, 2009.
- Worth, Robert F. and David D. Kirkpatrick. “Seizing a Moment, Al Jazeera Galvanizes Arab Frustration.” *The New York Times*, January 28, 2011: A1.
- Yamani, Maha A. Z. *Polygamy and Law in Contemporary Saudi Arabia*. Reading: Ithaca Press, 2008.
- Yusufzai, Ashfaq. “Wafaqul Madaris VP Shot Dead.” *Dawn*, September 16, 2007.
- Yusufzai, Rahimullah. “Time to Rethink Swat.” *The News*, October 4, 2008.
- Zahid, Muhammad. “Bila-sud bankari ka tanqidi jaʿiza.” Part 1, *al-Shariʿa* 21/5 (May 2010): 30–9.
- _____. “Mawjuda pur-tashaddud tahriken awr Deobandi fikr wa mizaj.” *al-Shariʿa* 20/11–12 (November–December 2009): 67–79.
- Zahid al-Rashidi, Abu ʿAmmar. “Arbab-i ʿilm wa danish ki ʿadalat main *al-Shariʿa* ka muqaddima.” *al-Shariʿa* 20/5–6 (May–June 2009): 2–12.
- _____. *ʿAsr-i hadir main ijtihad*. Gujranwala: al-Shariʿa Academy, 2008.

- _____. "Dahshat-gardi ke khilaf fatwe ki shar`i ahammiyyat." *Daily Pakistan* (Lahore), December 22, 2009.
- _____. *Dini madaris ka nisab wa nizam*. Gujranwala: al-Shari`a Academy, 2007.
- _____. "Hamare ma`ashi masa'il awr Mufti Mahmud ke afkar wa khayalat." *al-Shari`a* 21/11 (November 2010): 2–3.
- _____. *Hudud Ordinance awr tahaffuz-i niswan bill*. Gujranwala: al-Shari`a Academy, 2007.
- _____. "Ma`ashi nizam awr ma`ashi rawiye main inqilabi tabdili ki darurat." *Daily Pakistan*, December 8–9, 2009.
- _____. "Mawjuda surat-i hal main `ulama-i Deoband ka ijtima`i mawqif." *al-Shari`a* (May 2010): 2–6.
- Zaman, Muhammad Qasim. "Arabic, the Arab Middle East, and the Definition of Muslim Identity in Twentieth Century India," *Journal of the Royal Asiatic Society*, third series, 8/1 (1998): 59–81.
- _____. *Ashraf`Ali Thanawi: Islam in Modern South Asia*. Oxford: Oneworld Publications, 2008.
- _____. "Pakistan: Shari`a and the State." In *Shari`a Politics: Islamic Law and Society in the Modern World*, ed. Robert W. Hefner, 207–43. Bloomington: Indiana University Press, 2011.
- _____. "Pluralism, Democracy, and the `Ulama." In *Remaking Muslim Politics*, ed. Robert W. Hefner, 60–86. Princeton: Princeton University Press, 2005.
- _____. "Religious Discourse and the Public Sphere in Contemporary Pakistan." *Revue des mondes musulmans et de la Mediterranee*, 123 (2008): 55–73.
- _____. "Religious Education and the Rhetoric of Reform: The Madrasa in British India and Pakistan." *Comparative Studies in Society and History* 41 (1999): 294–323.
- _____. "Studying Hadith in a Madrasa in the Early Twentieth Century." In *Islam in South Asia in Practice*, ed. Metcalf, 224–39.
- _____. "Tradition and Authority in Deobandi Madrasas of South Asia." In *Schooling Islam*, ed. Hefner and Zaman, 61–86.
- _____. *The Ulama in Contemporary Islam: Custodians of Change*. Princeton: Princeton University Press, 2002.
- _____. "The `Ulama of Contemporary Islam and their Conceptions of the Common Good." In *Public Islam and the Common Good*, ed. Armando Salvatore and Dale F. Eickelman, 129–55. Leiden: Brill, 2004.
- al-Zarkashi, Badr al-din Muhammad (d. 1392). *al-Burhan fi `ulum al-Qur'an*. Ed. Muhammad Abu'l-Fadl Ibrahim. 4 vols. Cairo: Dar ihya al-kutub al-`Arabiyya, 1957–9.
- Zayd, Muhammad. "Ijtihad: Ahkam, shara`it, wa tariq-i kar." In *Ijtihad awr masa'il-i ijtihad*, 27–71. Delhi: Institute of Objective Studies, 1998.
- Zayd, Mustafa. *al-Maslaha fi'l-tashri` al-islami wa Najm al-din al-Tufi*. 2nd edition. Cairo: Dar al-fikr al-`Arabi, 1964.
- Zebiri, Kate. *Mahmud Shaltut and Islamic Modernism*. Oxford: Clarendon Press, 1993.
- Zeghal, Malika. *Gardiens de l'Islam: Les ulama d'al-Azhar dans l'Egypte contemporaine*. Paris: Presses de la fondation nationale des sciences politiques, 1995.
- _____. "Religion and Politics in Egypt: The Ulema of al-Azhar, Radical Islam, and the State (1952–94)." *International Journal of Middle East Studies* 31 (1999): 371–99.
- Zubayr, Hafiz Muhammad. "Pakistan ki jihadi tahriken: Aik ta'rikhi wa taqhiqi ja'iza." *al-Shari`a* 19/11–12 (November–December 2008): 76–105.
- Zubayri, Muhammad Amin. *Hayat-i Muhsin*. Aligarh: Muslim University Press, 1934.

- Zuhayli, Wahba. *Athar al-harb fi'l-fiqh al-Islami*. Beirut: Dar al-fikr, n.d. (ca. 1966).
 ———. *Qadaya al-fiqh wa'l-fikr al-mu`asir*. 2 vols. Damascus: Dar al-fikr, 2006–8.
 Zwemer, Samuel M. “An Introductory Survey.” In *Islam and Missions: Being Papers Read at the Second Missionary Conference on Behalf of the Mohammedan World at Lucknow, January 23–28, 1911*, ed. E. M. Wherry, S. M. Zwemer, and C. G. Mylrea, 9–42. London: Fleming H. Revell Company, 1911.

UNPUBLISHED DISSERTATIONS

- Dagli, Caner K. “From Mysticism to Philosophy (and Back): An Ontological History of the School of the Oneness of Being.” PhD dissertation, Department of Near Eastern Studies, Princeton University, 2006.
 Datla, Kavita Saraswathi. “Making a Worldly Vernacular: Urdu, Education, and Osmania University, Hyderabad, 1883–1938.” PhD dissertation, Department of History, University of California, Berkeley, 2006.
 Hamzah, Dyala. “L’intérêt general (*maslaha`amma*) ou le triomphe de l’opinion: Fondation délibératoire (et esquisses délibératives) dans les écrits du publicist syro-égyptien Muhammad Rashid Rida (1865–1935).” PhD dissertation, École des hautes études en sciences sociales and Freie Universität Berlin, 2008.
 Khan, Fareeha. “Applying Shari’ah as a Religious Minority in Colonial India: Ashraf `Ali Thanawi’s Fatwa on Women’s Right to Divorce.” PhD dissertation, Department of Near Eastern Studies, University of Michigan, 2008.
 Lauzière, Henri. “The Evolution of the Salafiyya in the Twentieth Century through the Life and Thought of Taqi al-din al-Hilali.” PhD dissertation, Georgetown University, 2008.
 Mushtaq, Faiza. “New Claimants to Religious Authority: A Movement for Women’s Islamic Education, Moral Reform and Innovative Traditionalism.” PhD dissertation, Department of Sociology, Northwestern University, 2010.

NEWSPAPERS AND MAGAZINES CITED

- al-Ahram* (Cairo)
al-Ahram Weekly (Cairo)
Aligarh Institute Gazette (Aligarh)
al-Balagh (Karachi)
Dar al-`Ulum (Deoband)
Dawn (Karachi)
The Economist (London)
Express (Lahore)
al-Faruq (Karachi)
Gulf Times (Doha)
The Herald (Karachi)
The Hindu (Delhi)
The Hindustan Times (Delhi)
The Independent (London)
The Lagos Weekly Record (Lagos)

The London Review of Books (London)
Ma`arif (A`zamgarh)
Majallat al-Azhar (Cairo)
Majallat al-Da`i (Deoband)
al-Manar (Cairo)
al-Misri al-yawm (Cairo)
The News (Islamabad)
The New York Times (New York)
Pakistan (Lahore)
al-Shari`a (Gujranwala)
al-Sharq al-awsat (London)
al-Shuruq (Cairo)
The Times (London)
The Times of India (Delhi)

WEBSITES

<http://www.darululoom-deoband.com>
<http://www.dawn.com>
<http://e-cfr.org>
<http://ifa-india.org>
<http://www.iumsonline.net>
<http://www.aljazeera.net>
<http://www.muftitaqiusmani.com>
<http://www.qaradawi.net>
<http://www.qfis.edu.qa>
<http://www.theamericanmuslim.org>
<http://www.twocircles.net>
<http://www.vatican.va>

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