# UNIVERSITY OF CAMBRIDGE

## CENTRE OF ISLAMIC STUDIES, CAMBRIDGE

The Centre of Islamic studies seeks to develop a constructive and critical understanding of Islam in the modern world. Its priority is to develop high-quality research and outreach programmes about Islam in the United Kingdom and Europe. Through its roster of scholarship, symposia, reports and interactive educational events, the Centre is committed to engaging with academics, policy-makers and wider society.

The work presented in this volume attests to the vitality of interpretive scientific approaches to the study of Islam in the social world. The papers provide a snapshot of emerging postgraduate work, presented at the University of Cambridge Centre of Islamic Studies' third Annual Postgraduate Symposium in May 2016. As in the previous year's symposium, the emphasis is not on theology or comparative religion, but on understanding the wide variety of different Muslims' lived experiences in the UK and Europe, alongside an analysis of the forces affecting these lives. The papers therefore tackle a range of themes of broad interest to scholars working in various fields of social and political science.

**DR PAUL ANDERSON, ASSISTANT DIRECTOR**
CENTRE OF ISLAMIC STUDIES, UNIVERSITY OF CAMBRIDGE

Muslims in the UK and Europe · III

# Muslims in the UK and Europe · III

*edited by*

**DR PAUL ANDERSON**
ASSISTANT DIRECTOR, CENTRE OF ISLAMIC STUDIES
UNIVERSITY OF CAMBRIDGE

**DR JULIAN HARGREAVES**
VISITING FELLOW, CENTRE OF ISLAMIC STUDIES
UNIVERSITY OF CAMBRIDGE

# FEBRUARY 2017

# MUSLIMS IN THE UK AND EUROPE III



Edited by

## Dr. Paul Anderson
*Assistant Director*

## Dr. Julian Hargreaves
*Visiting Fellow*

## Centre of Islamic Studies, University of Cambridge

## FEBRUARY 2017

# CONTENTS

# INTRODUCTION

THE PAPERS PRESENTED IN THIS VOLUME provide a snapshot of emerging postgraduate work on Muslims in the UK and Europe. They are expanded versions of papers presented at the University of Cambridge Centre of Islamic Studies' third Annual Postgraduate Conference held on 13-15 May 2016. The Centre of Islamic Studies annual conference aims to bring together work in this expanding field and provide a forum for critical discussion and reflection. As in previous years, the emphasis is not on theology or comparative religion, but on understanding the wide variety of different Muslims' lived experiences in the UK and Europe, alongside an analysis of the forces affecting these lives. The papers therefore tackle a range of themes of broad interest to scholars working in various fields of social and political science. They also cover a variety of geographical and institutional contexts, mainly in the United Kingdom but also in Germany, Russia and Tunisia. While there are many possible ways of bringing these papers into dialogue with each other, they are grouped here into four thematic sections: religion and identity; national and supranational organisations; political participation and non-participation; and socio-legal perspectives. Discussion at the symposium itself, and therefore the post-conference development of papers, benefited immensely from the critical input of Dr Nadia Fadhil of the University of Leuven, a noted anthropologist of Islam, who delivered the keynote speech entitled "Enough with excuses! On self-critique, Islam, and the dilemmas of public anthropology after the Paris and Brussels attack". Dr Fadhil also acted as mentor and discussant throughout the event. Beyond this critical input, the finished papers included in this volume were developed with only minimal editorial intervention and, as previous volumes have done, showcase the quality of the current research into Muslims and Islam produced by young and early-career scholars across Europe.

## Religion and Identity

Three papers in this volume consider the emergence of faith-based, ethnic and gendered identities in particular national and regional contexts in Europe, from a variety of disciplinary perspectives. Benussi uses an ethnographic approach to offer an intriguing analysis of Sunni religious revivalism in the Volga region. While the Tatar and Bashkir Muslim populations of this part of

Russia have often been neglected in English-language scholarship, in fact the post-Soviet period has seen a resurgence of interest in Islam among people of Muslim background in these regions. This represents a challenge to public narratives about Tatar identity and heritage, which have tended to celebrate two notions of Islam: "traditional" folk religion concerned with popular devotion rather than shariah-consciousness, and modernist jadidism which has connotations of Europeanised and Russified – as distinct from "Oriental" – identity. Benussi however draws attention to the diversity of ways of being Muslim in this region which are not captured by these categories, such as movements of halal cool which stress juridical correctness alongside self-improvement and worldly success, and which draw both on Quran and hadith and on motivational literature by Donald Trump and Steve Jobs. In place of the traditional/non-traditional dichotomy which dominates Russian public discourse about Islam, he proposes a more nuanced four-fold model: socially inclusive "ecumenists"; "intellectuals" competent in different social registers; "puritans" embracing literalist positions and social activism; and "autarkists" prioritising purity and advocating separation from the mainstream. Yet he stresses that all share the same ethnic and post-Soviet culture as their less religious Tatar countrymen, which should lead us to question any assumptions of Muslim "foreignness" in this part of Russia.

Brice uses census data from the United Kingdom Household Longitudinal Study to explore the ethnic identity of a hitherto little recognised group: those who identify as White British Muslims, but whose parentage and grand parentage "origins" are in South Asia. Data from the England and Wales censuses for 2001 and 2011 show that some 63 thousand and 77 thousand respectively identified as White British and as Muslim. This amounts to some 3-4% of the total Muslim population, and challenges assumptions in the mainstream media that "Muslims" are a distinct ethnic group from "White British". Previous analyses have tended to assume that figures represent individuals who have either converted to Islam or misidentified as White British rather than "Other White". But Brice shows that converts only account for some 25,000 of the 2011 figure for White British Muslims; and that many of the remainder do not have white British parentage, which questions the hypothesis that they should properly have identified as "Other White". Instead, Brice argues by drawing on the *Understanding Society* dataset, a substantial number of White British Muslims – around 39% - in fact have family origins in South Asia and choose to identify as White, as the first or second generation born in the UK. This choice he suggests represents a "widening of the borders

of whiteness" and is comparable to the phenomenon identified in the US whereby individuals of Hispanic and Asian American background adopt a path of "becoming white"; the dynamics behind this affiliation call for further study.

Kurz's paper analyses the way that Islamic masculinity is constructed in mosque centre lectures offered by an imam in a multi-ethnic quarter in Berlin between 2011 and 2016. She discusses the way that men are encouraged in the lectures to "lower their gaze" in order to avoid the "seductive potential of women for men". While much work has been done on the role of embodied religious discipline in the way that Muslim women seek to fashion ethical subjectivity and live out divine will, comparatively little attention has been paid to the way that men also seek to embody a capacity for modesty. Kurz argues that it is important to pay attention to the gendered nature of processes of ethical self-formation. She also draws attention to the way that the imam uses these processes in order to draw attention to the marginalisation of Muslim masculinity in a context where Muslim men are often stigmatised, and in turn to redraw hierarchical distinctions between a "morally positively connoted community of Muslims" and "German society".

## National and Supranational Organisations

Two papers consider the institutional dynamics behind the construction of Islam at the national and supranational levels. Muller analyses the forum of the German Islam Conference which purports to offer a "dialogue" between the government and Islamic umbrella organisations in Germany. He argues that the expectations of Muslims expressed through the German Islam Conference and in related central government publications are "more complex than the programmatic idea of "dialogue" suggests", and that the state wavers between an ostensibly neutral position with regard to different theological currents and an interventionist, prescriptive position which calls for active processes of enlightenment and constructs Muslim as "deficient citizens". Moreover, Muller argues that the aim of establishing a Coordinating Council of Muslims reflects a desire to shape an Islamic community that is "united in structure, doctrine and religious practice", and is modelled on a Christian framework which does not take account of actually existing diversity in the Muslim context.

Taleb also considers the effects of institutional discourse about Islam in

Europe but from a supranational rather than a national perspective. Moving ably from the theoretical to the empirical, Taleb examines the ways in which EU actors together discuss Islamophobia, the effects this discourse has on dynamics of subjectification within Muslim communities, and the implications for the conceptual primacy, and inconsistencies, of 'European values'. Her paper critically engages with the construction of a 'European Islam' and brings into focus the mutually imbricated processes through which notions of 'Muslim-ness', but also 'European-ness', emerge in this context. Drawing from the anthropological work of Talal Asad, Taleb untangles the contested nature of the term 'Europe', bringing Foucauldian notions of power to bear on our understanding of how Europe is produced. By doing so Taleb highlights the discursive processes involved in making Europe and the strategies used to set and maintain norms.

## Political Participation and Non-Participation

Two papers also consider arenas, blockages and changing forms of political participation among a variety of Muslim actors in the UK, Europe and North Africa. Zainab provides a cross-section of debate and discussion among young Muslims aged 15-30 attending mosques, Islamic organisations and informal meeting groups in the British city of Bristol, on the topic of the so-called Islamic State. She captures a variety of perspectives on the question of the caliphate, British belonging and identity, and responses to public discourses around radicalisation. All those she spoke to condemned the abhorrent actions of the so-called Islamic State; some expressed the view that there was a place in the modern world for a true Islamic caliphate, while others saw that it had little bearing on or relevance to individual spirituality in Islam. Most felt that their experience of their own citizenship had been negatively affected by a public sphere dominated by concern about the "Islamic State" – with many reporting experiences of everyday hostility as well as anxiety caused by state policies securitising Muslim identity in public institutions.

Wolf offers a study of the importance of non-activism in shaping political identities. She examines how the development of the Tunisian Islamist party al-Nahda was affected by a period of exile in France and the United Kingdom between 1989 and 2011. Most accounts of Tunisian Islamist politics in this period – such as al-Nahda's disavowal of violence in 1995 – suggest that the emergence of a conciliatory approach to Ben-Ali's authoritarian regime was the result of a "process of learning about democracy" which its activists

encountered in exile. Wolf however questions this argument, as well as the centrality of activists and leadership in determining the development of Tunisian Islamist politics in this period. Interviews with the grassroots revealed a different dynamic: not one of learning and strategic adaptation, but one in which rank-and-file members increasingly distanced themselves from activist involvement in the hope of pursuing a more "normal" life. This dynamic was compounded the difficulty which many experienced in integrating in the West, and a consequent desire to return to Tunisia and be reunited with relatives there, under conditions determined by Ben-Ali's regime. This pursuit of "individual solutions" isolated and put pressure on the Islamist leadership, and shows the importance of non-activists and non-activism in shaping political destinies. It also, she suggests, underpins the current "politics of compromise" in Tunisia, in which followers of al-Nahda have entered into coalition with members of Ben-Ali's former regime.

## Socio-legal Perspectives

This year's papers also included a set of studies that adopted socio-legal perspectives on Islam. These were also evident at the 2015 symposium in presentations on unregistered marriages by Vishal Vora and Islamic law by Tariq Al-Timini. This growth continues apace with three papers in the present volume focusing on issues of legislation and jurisprudence. Soliman's paper discusses English court decisions concerning unregistered and polygynous marriages. Soliman argues that there is a need for a perspective shift within the British Muslim community toward raising women's awareness of the legal tools that might afford protection during and after the breakdown of a marriage, and that may discourage polygynous practices that prove so harmful to affected Muslim women living under English law.

Prief's paper offers a rare empirical study of the procedures used by sharia councils and the Muslim Arbitration Tribunal. She frames her engaging study within the context of alternative dispute resolution (ADR) as promoted in the English civil courts and applied frequently to marital disputes. Prief asks whether procedures performed by Islamic institutions in the UK may be subsumed under the legal principles of ADR. Her conclusions highlight the debates around the suitability of council members to act as mediators, media concerns around the levels of sensitivity applied to cases involving allegations of domestic violence, and the not inconsiderable challenges of access and transparency faced by researchers wishing to undertake fieldwork within sharia courts.

Finally, Uddin's paper poses a simple question: How do Muslim women pursue divorce in the UK? His socio-legal study underpins his answer with qualitative and phenomenological research approaches examining how law operates within a specific context: English law and British Muslims. Emergent findings in Uddin's work-in-progress shed light on the many complexities faced by Muslim women seeking divorce, and the plurality inherent within community understandings of sharia law. Uddin's work identifies domestic violence, transnational marriage and in-law interference as determining factors in marriage breakdown and addresses the challenges faced by those, including Uddin, who seek to reform divorce proceedings and thus improve social justice for British Muslim women.

These three papers could be viewed collectively as representing a shift away from debates around basic human rights and towards more granulated legal debates about the myriad ways in which English law continues to shape and re-shape the everyday lives of British Muslim communities. The work of each of the three scholars reminds us of the ongoing challenges that emerge out of the interaction between legal frameworks and a diversity of cultures and norms. Interestingly perhaps, the focus of these studies is British Muslim women and implied throughout is the patriarchal nature of the cultural practices described but also of the legal processes relied on by many of the female research subjects: a further reminder perhaps that issues of gender inequality and imbalance transcend with ease the limits of cultural, religious and national boundaries.

Several themes in these papers pick up conversations from previous years' discussions – such as the way that legal frameworks operate and are drawn upon in the context of particular cultural identities and practices; the intersections between religious faith and ethnic and gendered identities; and the way that citizenship and engagement in the public sphere shape and are shaped by public and institutional discourses about Islam. New themes are considered in these papers, such as the importance of non-activism and the pursuit of normality in the shaping of political life; and the emergence of hybrid youth subcultures such as "halal cool". Taken together, these papers and the perspectives they present attest to the complexity and diversity of social worlds across Europe in which Islam is playing a role.

**Dr Paul Anderson**
**Dr Julian Hargreaves**

# Religion and Identity

# The Weight of Tradition: "Traditional" versus "Non-Traditional" Islam in Russia's Volga Region

MATTEO BENUSSI

## Abstract

*My research focuses on Islamic renewal movements amongst the Muslim populations of the Volga region in the Russian Federation. In this paper, I critically engage with a hegemonic scholarly and media discourse about "traditional Russian Islam", outlining its intellectual genealogy and describing its social outcomes. Thereafter, on the grounds of my ethnographic findings gathered from sixteen months of fieldwork in the Republic of Tatarstan, I proceed to summarise a model to map the major trends and trajectories within the Russian ummah.*

## Introduction: Islam's Return to the Volga Region

Anglophone scholarship about the Volga region and its Tatar and Bashkir Muslim populations is relatively scant in comparison to the wealth of literature about other regions – under the gaze of Western Orientalists since the colonial era – of the so-called Islamic World. The Twentieth Century's history of political confrontation between the Soviet Union and the West, along with decades of brutally implemented secularization, brought Russia's Muslims even further away from the scope of Euro-American Islamic Studies. They became, in the words of Bennigsen and Lemercier-Quelquejay, "the forgotten Muslims"[1]. As the Soviet system collapsed, however, many things changed.

Since the early 1990s, the Republic of Tatarstan (and Russia at large) has witnessed the shocking success of a range of transnational Sunni movements of religious renewal, running the gamut from literalist orthodox puritanism (Salafiyyah) to education- and dialogue-oriented flexible conservativism (Fethullah Gülen's Hizmet Movement). All these movements emphasise God-consciousness (*taqwa*) and promote adherence to Sharia – albeit very differently –, thus challenging the widespread assumption that Volga-region Muslims, in light of their history of secularization under Russian and Soviet rules, should turn their back on Islamic law.

This sudden surge in spiritual activity was experienced by many in the Volga

region – similar to other post-atheist transition contexts[2] – as something unsettling and nearly unmanageable, a change beyond individuals and communities' ability to master in full. The return of Islam to Russia brought about splintered, fractured collective selves. In particular, the rift between a novel, growing minority of practicing Muslims (*soblyudayushchie*) and a majority of non-practicing Muslims (*nesoblyudayushchie*) is described as a chasm between "parallel worlds" increasingly drifting apart[3].

## The Volga Anomaly: Russia's "Ethnic Muslims"

The term "ethnic Muslim" (*etnicheskie musul'mane*) is used in Tatarstan and Russia's other Muslim-majority regions to describe people of Muslim descent who do *not* embrace formal Islamic doctrines as relevant sources of moral or spiritual guidance. Ethnic Muslims are, by and large, of secular orientation, although many may feel interpellated by the atmosphere of enhanced religiosity that has made its triumphant entry to the cultural life of the region.

According to some analysts, the term "ethnic Muslims" is idiosyncratic to Russia's ethno-political discourse[4]. My findings corroborate this claim. It is understood that non-practicing Muslims are not a social group unique to any specific country[5] – however, Volga region's ethnic Muslims come across as a specifically post-Soviet phenomenon.

I was initially tempted to consider the Russian-context "ethnic Muslims" trope as synonymous with "Muslims by heritage". A number of social scientists productively use the latter expression to define people who are Muslims by birth vis-à-vis individuals who converted to Islam from other backgrounds[6]. I realised, though, that this facile likeness is potentially misleading. In the first place, the term "ethnic Muslims" is customarily used to describe *only* non-practicing (*nesoblyudayushchie*) Tatars and Bashkirs. Secondly – and more importantly –, most of Russia's ethnic Muslims do not experience their "Muslimness" as heritage.

"Heritage", by definition, signifies something shared, communal, and public. It is safe to say that this is not the case in the case under analysis. Islam (with one important exception which I will address in the following section) is scarcely part of present-day official discourse on Tatar national heritage as it was construed during Soviet and early post-Soviet times. Seventy years of anti-religious militancy have successfully estranged masses of self-ascribing Muslims from the textual sources of their ascription and abolished any public

religious ethos. State atheism made oral, household-based catechization and kinship-distributed transmission of a "sense of Muslimness" predominant over diffuse, culture-based, and more impersonal forms of Islamic enculturation (e.g., through Quranic schools and courts, or public community values) which, by contrast, represent the norm in Muslim countries and Muslim diasporic communities in the West. In the Soviet Union, religion-derived moral norms and values were eradicated from public culture, surviving almost exclusively – and in a simplified form – through household secrecy.

As a result of atheist policies[7], the Soviet experience coincided with a near-total erasure of Islam from Tatar public life, particularly in those urban areas that, paradoxically, are currently most intensely affected by the spread of Sunni reform movements[8]. Russia's ethnic Muslims live their Muslimness as something that runs in their blood – something private, rather than public; jealously bodily, and viscerally intimate. My ethnic Muslim informants describe their Muslimness as a birth-given essence, consubstantial with the 'stuff' one's most intimate self is made of, rather than bearing any explicit connections to an established body of beliefs, ritual practices, and divine scriptures. A number of informants of secular orientation even report embarrassment with their ancestral Muslim essence, a sense of being "cornered" with their unavoidable Muslimness in today's climate of resurgent religious enthusiasms.

## The Jadid Myth: A Burdensome Legacy

As mentioned above, there exists one exception to the general removal of Islam from public narrative about Tatar heritage: the myth of the Tatar Jadids. This is an exception of capital relevance: the importance and ubiquity of the Jadid myth cannot be stressed enough while dealing with Volga region Muslims' spiritual history and its contemporary ramifications.

Jadidism was a modernist movement initiated by young urban Muslims in the Russian Empire between the 19th and early 20th century. The Volga region, along with Crimea, was one of the earliest strongholds of this multifaceted movement, that later swept across Eurasia, feeding into modernist movements in Russian Turkestan, Chinese Turkestan and the Ottoman Empire. Jadids pursued an array of goals, ranging from a radical modernization of traditional Muslim education – in opposition to the traditionalist schooling provided by

mullahs and Sufi sheikhs – to a downright revolutionary change of Tsarist society[9]. This movement was eventually suppressed under Stalin's Terror. Its legacy, however, re-emerged as the Soviet ideology collapsed and soon became a hegemonic historical narrative.

Since the 1990s, more and more scholars both in Russia and abroad have rediscovered Russia's Muslims as a field of study. This rediscovery was characterised by an almost exclusive focus on Jadidism as both the main research topic and the dominant narrative though which to frame the legacy of Islam in Russia, both in academic settings and in broader media discourse nationwide[10]. According to Devin DeWeese however, this "Jadidocentric" approach is flawed by a series of Eurocentric misconceptions, particularly evident in most researchers' overemphasis on Jadids' "secularism" at the expense of the ever-neglected religious aspects of their cultural struggle[11].

DeWeese's well-rounded critique of academic clichés about the Jadids paves the way for a further critical reflection on Jadidocentrism, although the author does not linger on this crucial aspect: the repercussions of the Jadid myth on the everyday life of today's Volga region Muslims. Far from being just a matter of historiographical dispute, Jadidocentrism has become – through Russian mainstream media – the major conceptual lens through which the current affairs of Russia's Muslims are read by discourse-makers and a number of influential cultural actors. Today, the Jadid myth comes across as a key conceptual cornerstone of the state-engineered narrative about Russia's "traditional Islam".

According to this narrative[12], Russian Muslims' uniqueness, especially in the case of the Tatars and Bashkirs of the Volga basin, lies in their precociously developed and supposedly inherent proclivity to modernity, secularism, and Western values, obtained through an extensive exposure to Russia's "civilizational achievements"[13]. Within this view, modernity is seen as a definite set of values and (desirable) social arrangements, corresponding to the final stage of an irreversible trajectory of progress that abrogates previous forms of collective organization, in particular – and most importantly – *religious law*. Through this Euro-Russocentric lens, the Jadids are seen as the earliest recipients of Western (Russian) values amongst Russia's Muslims and as first native abrogators of religious law. This interpretation conveniently overlooks the fact that part of Jadids' modernist criticism of "retrogressive" mullahs and sheikhs was articulated along "fundamentalist" (Salafi) lines, by

pitting the Quran and Sunna against lineage, custom, and popular devotion as the legitimate sources of authority amongst Muslims[14].

As of today, a number of Tatar ethnic Muslims see themselves as 'Europeanised' (*evropeizirovannye*) and 'Russified' (*obrusevshie*): culturally distant from "Islamic/Oriental" Central Asia and Northern Caucasus, and removed from the Muslim World. Tellingly, some of my informants expressed the view that Tatars are "not Sunnis or Shi'i but Jadids: secular Muslims". This example illustrates the distorting nature of the Jadid myth. Historically, the Tatars (including the Jadids) have been Hanafi Sunnis since the 10th century[15]. In addition, Jadidism was not an Islamic sect but a socio-political movement, a fringe – if influential – group that attracted only a small fraction of the overall Tatar population. For many ethnic Muslims, however, this make-believe Jadidism is the only known form of Islamic heritage.

To complicate things, Tatarstani secular nationalists of liberal orientation such as Rafael Hakimov imagine post-Soviet "Tatar Islam" in terms of non-denominational Euro-Islam and take inspiration from Jadidism to lend historical concreteness to their dream of a modern, progressive national religion for the Tatar people. This liberal "Neo-Jadid" project grabbed the attention of certain Western political analysts[16]. My ethnographic findings, however, show that the Volga region's *practicing* Muslims of all orientations, variously inspired by the plethora of Sunni revivalist movements that have taken root in post-atheist Russia, discount Neo-Jadidism with distrust and disdain. They deem this project un-Islamic, neo-colonialist, irredeemably insular, and incapable of quenching the spiritual thirst of the "new Muslims".

### The Trouble with Secularism

The major downside of secular Jadidocentrism is that this paradigm completely fails to make sense of the developments of Volga region *ummah* since the demise of the Soviet experiment.

My ethnography has revealed that the region is the scene of a mushrooming of Islam-inspired groups, initiatives, movements. A growing number of Tatars and Bashkirs (alongside Russians and representatives of other nationalities) enter the market of religious movements every year, with Sunni Islam being the fastest-growing denomination amongst ethnic Muslims[17]. Throughout the 1990s, several Saudi-funded *madrasas* opened in the Volga Region. A

number of Tatar and Bashkirs students pursued religious knowledge in Islamic countries such as Turkey, Pakistan, and the Gulf states. Eight high-quality "Tatar-Turkish Lyceums", connected to the international Hizmet network[18], transformed the shape of Tatarstan's education system. Transnational Islamic movements (such as Tablighi Jamaat and Hizb ut-Tahrir) made their sporadic, but shocking appearance in local media.

By the late 2000s, the federal government had clamped down with draconian zeal on most of these realities in name of the fight against terrorism. As one commentator points out, the strategy employed by the Russian state amounted to "expanding the range of measures available to suppress fundamental civil rights and liberties through an intentional confusion between extremely dangerous behaviours (such as terrorist attacks) and harmless ones (such as statements of religious superiority)"[19].

Despite a federal clampdown, Islamic revivalist movements left a deep and durable imprint on the society of the Volga region. Today, Islamic lifestyles and puritanical theological currents, such as the Salafiyyah, appeal to the urban middle-class youth, the most dynamic and "modern" sector of the overall Muslim population. In spite of mainstream interpretations linking modernity to secularism, the totality of my sharia-abiding informants explicitly associate Islamic revivalism with notions of "progress", "innovation", and "development", challenging thus a commonplace view envisioning secularity as teleologically more advanced than religion.

Besides, "new Muslims" aspire to success and wealth in their worldly life just as much as they strive for spiritual self-perfection; as a result, they represent a particularly entrepreneurial and economically successful slice of the Volga region population. This trend is mirrored by the boom of the *halal* industry, which contributes substantively to a new identity and image of the Republic of Tatarstan and its main city Kazan. Kazan has now become the informal hub of what some informants named Russia's "halal movement" (*dvizhenie halyal'*), a trend bringing together young business people, students, and activists of Muslim background. Within this subculture, Islamic piety is contiguous to coolness[20], initiative, urbanity, lofty aspirations, cosmopolitanism, and a healthy and disciplined lifestyle (ZOZh[21]).

The main representative of Russia's "halal cool" is Tatar imam Shamil-*hazrat* Alyautdinov, a graduate of Al-Azhar, *khatib* of Moscow's Memorial Mosque, and author of dozens of books bridging Islamic spirituality and self-

improvement. His popular work – hinged around the figure of the "Trillionaire", a fictional embodiment of worldly success and spiritual self-perfection[22] – draws inspiration from the Quran and hadith as well as from Steve Jobs' and Donald Trump's motivational books. Youthful, fit, and always stylish, Shamil-*hazrat* challenges the stereotype of the Tatar mullah and projects, in his seminars, an aura of solidity and energy. It is safe to say that the whole young guard of Russia's Muslims has come into contact with Shamil-*hazrat*'s oeuvre, making Alyautdinov one of the single most influential voices in the Russian *ummah*. In spite of his vast following, however, Alyautdinov is criticised by some conservative and Salafi-oriented Muslims – who actually share the same bourgeois ethos and aesthetics – for his alleged flippancy with regards to Quranic terminology and his "mainstream" orientation. This plurality of views stimulates the proliferation of similar projects on the local level, particularly in the Volga region Republics[23].

A link between religious rigour, youthfulness, and bourgeois ethics has not escaped the notice of anthropologists of Islam working elsewhere, although not all its implications have been explored yet[24]. The Russian case, however, is particularly important in light of the ambivalent position the Muslim community occupies within the broader, prevalently Christian Russian society. The place of Muslims in Russian society is often conceptualised through a distinctly polarised narrative of opposition between "traditional" and "non-traditional Islam", which I will explore in what follows.

### The Trouble with Tradition

As I anticipated at the beginning of this paper, the coexistence of Volga region's ethnic-Muslim majority and its ripening but vocal Sunni scene – promoting "halal lifestyles" and linked to transnational religious networks – is a peaceful but uneasy one. This relationship is further complicated by a deeply entrenched narrative that places *good* "traditional" (*traditsionny*) Russian Islam in stark opposition to *bad* "non-traditional" (*netraditsionny*) Islam. This binomial scheme, originating in state structures and relentlessly propagated by media, is accepted amongst a majority non-Muslims and Muslims alike, and hardly ever questioned.

According to this dualistic scheme, the first pillar of traditional Russian Islam would be its secular, non-normative, and above all *non-juridical* nature. Traditional Islam is always defined as "mild" and "loyal" to the state (*loyalen*).

Secondly, in the traditional Islam narrative, religion is understood as a timeless attribute of the nation, rather than as a social phenomenon happening amongst concrete persons. The ideological rationale behind Islam being listed as one of Russia's four "traditional faiths"[25] is purely territorial. The nation, defined through geography and endowed with its archaic rites and loyalties, comes to define and shape religion: sources described traditional Islam in terms of an "Islam adapted to long-standing local customs". Besides political loyalty and a connection to archaic national past, the third foundation of the traditional Islam discourse is – as we have seen in previous sections – the myth about Jadids' "secular" tilt.

Traditional Islam is pitted against non-traditional Islam, synonymous with "Salafism/Wahhabism" and decried as undesirable extremism. Salafism is portrayed as an obscurantist ideology prompting unruly, treacherous young people to absorb the poisonous influence of foreign powers and, potentially, conspire against the state. "Traditional/non-traditional" fundamental opposition lies at the heart of Russia's Islamic question. It can be interpreted, as Roland Dannreuther phrases it, as

> a recognition, on the one hand, of the rootedness of Islam in Russia and, on the other, of the territorial disembodiment of Islam as a universal religion which necessarily transcends and potentially threatens the Russian state. What is more difficult to articulate in the Russian context is the idea of a pluralistic Islam, where multiple interpretations are both possible and desirable.[26]

Journalists and academics, with few exceptions both in Russia and abroad, tend to reproduce the "traditional Islam" trope rather than deconstructing it[27]. Even political scientists who criticised the "traditional/non-traditional" opposition as too polarised have yet not provided an analysis of what lies behind these labels. In what follows, I shall demonstrate that traditional Islam is a flexible signifier, overlaid by an array of distinct interpretations and used to group together interrelated, but importantly different meanings:

1. Traditional Islam as "patriotic" Islam: This expression refers to the practice – initiated during the Soviet era and revived during the Chechen wars – of co-opting religion as an ideological support to federal political order[28]. This operation results in a conglomerate of "Islamic" institutions, groups, and individual figures politically contiguous to the Kremlin and supportive of its policies. In a widely read, programmatic 2011 article, influential tabloid *Komsomolskaya Pravda* defined this conglomerate and co-optation practices as "sovereign Islam" (*suverenny Islam*), linking it to Russia's

imperial past and, implicitly, to Kremlin's plans of supra-ethnic national restoration[29].

2. Traditional Islam as folk Islam : This refers to an array of practices of popular devotion carried out mostly by the elderly in rural areas of the Volga region. These practices include: healing sessions led by a mullah (*öşkerü* or *öşkertü*), blessing of water and oil through recitation of Islamic formulae, communal meals with recitation of the Quran (*Kor'än aşı*), funeral wakes (*mäcleslär*), congregational handshakes after *namaz*, and pilgrimages to holy sites such as sacred springs (*izge çişmälär*). Such practices tend to be shunned by many young Muslims who perceive them as either unorthodox or primitive and backwards.

3. Tatar/Baskhir "national spiritual heritages", i.e. Islam as an ethnic marker, along with language and customs: In the Volga region, there exist a plethora of nationalist groups and activists seeking to promote ethnic awareness and restore solidarity within the Tatar community by emphasizing "local Islam" as a unifying legacy. The majority of ethnic Muslims, as explained above, see religion as something visceral, kin-transmitted, and inherently private. Islamic heritage activists, by contrast, attempt to rescue Muslim-ness from the private sphere and reconfigure it as a collective ethnic patrimony (*miräs*), albeit within a secular-nationalist paradigm. Two influential trends within this sector are Neo-Qadimism and Neo-Jadidism[30].

4. The fourth way in which the traditional Islam trope is constructed corresponds to a specific civil society project pursued by certain Muftiates[31], namely an attempt to create and popularise an Islam which is "national in the form, Islamic in content". Some ethnographic sources named it "orthodox traditional Islam", or "theological traditional Islam". For instance, Tatarstan's Muftiate is attempting to merge mainstream discourses on traditional Islam with the practiced religiosity of the cohorts of sharia-abiding Muslims that all too often are dismissed as "non-traditional" potential extremists. Through attempting to bridge this gap, the Muftiate aims at increasing its legitimacy amongst young middle-class Muslims who are attracted by Islamic literalism, puritanism, and strict spiritual discipline. To achieve this goal, elements within Kazan Muftiate are challenging, at least in part, the institution's own reputation of spiritual slackness and connivance with the secular powers-that-be. This move is political (and governmental) in nature, but more inclusive than the mere

surveillance for which Muftiates tend to be famed amongst Russia's Muslims.

The reputation of traditional Islam and its advocates is doubted by practicing Muslims of all orientations. "Traditional/non-traditional" dichotomy postulates the existence of only two neatly defined and homogeneous sectors within the Russian *ummah*. As a result, individuals who abide by sharia law risk being pigeonholed as betrayers of a national covenant existing from time immemorial. Any critical stances about secularism, whatever shape it takes, public or private, risk being considered by public opinion and state security organs not only as anti-modern, but also *unpatriotic*.

Bans and censorship on religious literature and associations became common techniques adopted by law makers and enforcers to mark the boundary between state-tolerated traditional Islam and the rest. "The list of banned Islamic literature burgeoned within a short period [2002-2004], and includes, in addition to leaflets of banned groups, the books of prominent Islamic preachers and theologians"[32]. My ethnographic data indicates that this is a major source of anxiety for New Muslims in the Volga region and Russia at large.

## Mapping the Ground: An Alternative Model

As a discursive artefact, the traditional/non-traditional binary opposition possesses ethnographic relevance. However, as an analytical tool, this model comes across as unescapably inadequate to understand the myriad nuances composing a community that most Russian-language media discredit under the blanket label of "deviant", "foreign" Islam. As a social scientist, I feel compelled to provide a fresh, hopefully more faithful ethnographic description of this community. The final section of this paper is devoted to putting forth an alternative model, better suited to describe the main trends and trajectories animating Volga region's *ummah*.

My alternative mapping of the Muslim community of the Volga region is not based on slippery notions of tradition and does not chart "degrees" of secularity. It is based on two underpinning criteria. The first is the relation to Islam's discursive tradition[33]: theological preferences, attitudes towards Islamic texts, and deference to codified Islamic juridical norms. The second criterion is the relation to the cultural mainstream, or the attitude towards the non-

Muslim majority. However, the four-fold scheme that I shall describe is necessarily very rough and I am still testing its validity. As always, the map is not the territory. The descriptors it features should not be considered exhaustive, rigid, or mutually exclusive. On the contrary, the boundaries between "territories" on the map are quite permeable, so that ethnographic subjects actually shift from one category to another in accordance with changeable circumstances.

1. *Ecumenists.* Official Islamic institutions are socially inclusive, mainstream, and theologically universalist. These structures are politically contiguous to Tatarstani republican establishment – mildly ethnically minded yet compliant with federal authorities – and accept Muftiate leadership in both political and religious matters. Ecumenical institutions function to a certain degree under the aegis of "traditional Islam" ideology.

   However, instead of being merely bureaucratic organs, these associations enjoy increasing popular participation and appear capable of connecting with genuine grassroots – harnessing growing support amongst Muslim entrepreneurs and the urban youth. Despite being criticised by rigorists for their perceived theological laxity and openness to compromise, ecumenical civic society organizations enjoy the expertise of acceptably knowledgeable Islamic scholars and promote full-fledged Islamic lifestyles amongst their associates, distancing themselves from notions of Muslimness-as-essence or Islam as (mere) cultural patrimony.

2. *Intellectuals.* This label applies to young, well-educated practicing Muslims, at ease in different social milieus and competent in different registers. Politically, they tend to espouse progressive and/or liberal positions. Many intellectuals are nation-minded and anti-colonialist, yet are seldom involved in politics. Some of them may articulate criticism of state-subservient Islamic bureaucracy.

   Theologically, some intellectuals show a proclivity to embrace so-called "liberal" Islamic approaches, in some cases engaging with forms of spirituality locally considered to be niche (inter-*madhhab* surfing, Sufism[34], or autonomous "*ijtihad*"[35]). Many, however, adopt standard Sunni approaches.

   Intellectuals often combine spiritual and secular-intellectual approaches to religion. In some cases, this leads to the pursuit of academic careers.

Multilingualism (ranging from Western languages to Oriental ones) is widespread in this sector of the "map".

3. *Puritans.* Muslims in this area of our map see themselves as opposed to the ecumenism of official religious institutions, depicting themselves as a spiritual elite, and preferring to inhabit Muslim-only social worlds.

   Puritans follow literalist approaches to Sunni Islam, and to varying degrees embrace Salafi theological positions and ways of commitment, although others stress their continuity with the Hanafi *madhhab.* Russia's Muslim puritans identify with the worldwide Sunni community, to the point that entertaining trans-national relationships with overseas Sunnis is considered a badge of honour. Simultaneously though, they display pronounced patriotic feelings and emphasise their connections to the broader Russian society. A widely-held notion amongst this sector of the Russian *ummah* is that Russia's Muslims constitute the moral, spiritual and demographical backbone of the nation. Politically, they tend to embrace conservativism, non-ethnic patriotism, and illiberal views on public morality and civil rights issues – although many yearn for more pluralism in Russian civil society.

   This group does not shy away from visible forms of social activism, ranging from volunteering in local communities to campaigning for Muslims' rights in the public arena.

4. *Autarkists.* This category's major feature is its pursuit of separation from mainstream society. People in this zone of the "map" are maximally concerned with purity and avoidance of all things haram or potentially spiritually harmful. They strive to keep as many aspects of their lives as possible, from leisure to work, within the framework of "pure Islam", which is understood as a coherent, exhaustive, and all-encompassing code for conduct, void of the flows and inconsistencies of man-made law.

   Salafi teachings are popular with this group. Many of my informants within this area of the map are, politically speaking, hard-core quietists: politics, along with secular sciences and philosophy, are normally shunned as spiritually jeopardising[36]. Autarkists place greater emphasis on the private sphere and self-improvement. The latter is not understood exclusively in religious term, although absorbing religious knowledge is a crucial life-goal. It also includes attainment of economic and career goals,

as well as embarking on a righteous family life.

Anti-system motives and feelings are not absent amongst autarkists, but hardly explicitly politicised – rather, they translate into minimizing one's dealings with the mainstream and maximising one's adherence to the Sunna and the path of the *salaf.*

I developed my four-fold map during the course of my ethnographic fieldwork. Upon researching existing literature, I acquainted myself with a strand of scholarship that proposes a tripartite model to explore how Muslims interact with non-Muslim majority society, namely through "assimilation", "integration", or "isolation"[37]. Such a model of classification, unlike mine, focuses only on Muslims' social attitudes towards the mainstream, but falls short of capturing internal spiritual dialectics and attitudes towards Islamic tradition. My proposed model, by contrast, attempts to anchor Muslims' views of broader society in their relationship with Islam's ever-unfolding intellectual and spiritual discourse.

Moreover, the language of integration versus assimilation betrays the increasingly untenable presumption that Muslim minorities in secular countries are by necessity made up of "foreigners". In Western migration contexts, it might indeed be difficult to tell apart Islam-as-religion and Islam-as-culture. But the vast majority of Volga region's practicing Muslims are in fact full-fledged members of the local public – including puritans and autarkists. They have been "integrated", and indeed – arguably – "assimilated", all along. They share the same ethnic culture as their non-religious fellow Tatars and the same post-Soviet culture as their fellow Russian citizens.

This ethnographic case helps us to fruitfully challenge West-centric assumptions of Muslims' "foreignness" and analytically distinguish culture, theology, and lifestyle choices. Although there may exist connections between theological views and lifestyle (e.g. between Salafi theology and "autarkist" type of social conduct), the two things belong to different conceptual realms[38]. It is analytically beneficial to distinguish them, and not to misinterpret them through the lens of foreignness.

### Whither Tradition?

In this paper, I strived to treat dichotomies ("traditional/non-traditional", "assimilation/integration") as cultural artefacts rather than explanatory

models. I stressed the existence of a continuum encompassing ethnic Muslims who see Islam as an innate essence, secular advocates of "traditional Islam", and a diversified galaxy of devout Muslims who take Islam as a living source of ethical guidance.

If "tradition" does not work as a sociological parameter, then what makes this notion ethnographically relevant as a discursive artefact? All four areas in the "map" above imply a critical stance towards tradition. Reform-oriented, cosmopolitan, and anti-traditional approaches to Islam are now widespread even amongst "ecumenists", who above all derive their legitimacy from claims of continuity with the Tatars' past spiritual history. The voice of puritanically minded young rigorists is increasingly heard in the ranks of the Muftiate, while Tatarstan's new high mufti is affiliated with an Istanbul-based rigorist branch of Naqshbandiyya[39]. As a result, in spite of the officialdom's compromising attitude towards theological matters, increasing emphasis is placed on strict spiritual discipline, especially amongst the youth, while the notion of an inherently secular Tatar path to Islam is losing terrain even amongst state-loyal religious institutions.

Conversely, claims of continuity with the local past are made even by conservative, cosmopolitan "autarkists" who apparently reject any notion of "traditional Russian (or Tatar) Islam" as a pernicious innovation. The tradition held in the highest regard within this milieu is that of the Golden Age of early Islam – the age of the Prophet with his Companions, the four Righteous Caliphs, and "pure" Islam. I have recorded several attempts to reconcile ancient and pre-revolutionary Tatar history with their ideal of Islamic purity and full adherence to God's laws. This narrative revolves around a number of pre-revolutionary Tatar imams and *ğalimnär* ('ulama) who championed orthodox Islam against Sufis and secular modernists alike, and are nicknamed by some "*Säläfitlärebez*" (our own Salafists).

Each sector of the Volga region's *ummah*, despite featuring profound innovations, claims to belong to a specific tradition. Likewise, mutual accusations of "diverging from tradition" come together with contrasting understandings of what tradition is. Labels such as "traditional" and "non-traditional Islam" are both criticised and actively used by social actors who choose on which side of the divide to position themselves on an ad-hoc basis, in accordance with context, interlocutors, and political interests at stake.

Therefore, during the course of my fieldwork, I have come to appreciate the

anthropological relevance of this dichotomy, which still permeates everyday discourse about Islam, its place in society, and the question of how to be a good Muslim. Notions of tradition and innovation are construed and revitalised differently by different groups, and juxtaposed to other relevant categories, such as halal vs. haram, "strong Islam" vs. "weak Islam", Sunna vs. *bid'ah*. As a result, several counter-hegemonic and sub-cultural projects of revitalization of Russia's Islamic tradition are gaining currency amongst Volga region Muslims.

# Becoming Muslim, becoming British, becoming White: White British Muslims challenging received binaries of West versus Islam and White versus Muslim

M. A. KEVIN BRICE

## Abstract

*The existence and size of the White British Muslim ethno-religious group is of interest as this group seems to directly challenge the received binaries of West versus Islam and White versus Muslim, both of which inform the majority of popular and even academic discussion of the Muslim population of England and Wales. However, neither academic nor popular literature appears to have much to say about this group beyond classifying them as indigenous converts to Islam or European and Arab Muslims who have mistakenly identified as White British. Adopting a descent view of ethnicity, this paper will analyse the distribution of certain 'markers' of ethnicity for individuals who self-identify as White British Muslim, drawing on data available through the United Kingdom Household Longitudinal Study. Following such an analysis, it will be suggested that there are three major categories of White British Muslims; those who have 'become' Muslim, those who have 'become' British, and finally, those who have 'become' White.*

## West versus Islam and White versus Muslim Binaries

In 1993 the American international relations journal *Foreign Affairs* published an article by Samuel P. Huntington entitled "The Clash of Civilizations?" in which Huntington argued that world politics was entering a new phase where the dominating source of conflict would be cultural[40]. Huntington revised and expanded the 28 page article to form his influential book *The Clash of Civilizations and the Remaking of World Order*[41]. In his book Huntington states that religion is a central defining characteristic of civilizations and argues that Western civilization is defined by Christianity (allowing it to then be compared to Islam). He notes the long history of conflict between the Christian West and Islam and asserts that the preeminent clash in the future will be that between the West and Islam – a civilization he identifies as fundamentally different to the West and in competition with it. Although Huntington's thesis has been comprehensively challenged, some argue that a series of Islamist terror attacks against Westerners and Western targets, starting with 9/11, validate Huntington's view[42]. What is clear is that the West

versus Islam binary, which is so much part of his thesis, retains widespread popularity.

A search of the British Library main catalogue for books with the exact phrase "Islam and the West" in the main title returns over 40 English language titles[43] and a search for the term "Islam and the West" on Google Books or any major online bookshop produces numerous books with this phrase in the title. While the viewpoints in these books vary widely – from those that deny any conflict between Islam and the West, to those that see the two as 'eternally' in opposition – the commonality they all share is in reinforcing the binary of West versus Islam.

From the context of the United Kingdom, the West versus Islam binary – with Islam seen as a clear and present danger – translates to Islam being classified as a 'foreign' religion with Muslims seen as the ultimate 'other'. This view, coupled with a confusion of ethnicity and religion, leads to an identification of 'us' as the White British majority (forming 80.5% of the population in 2011[44]) and 'them' as the Muslims (a minority group accounting for 4.8% of the population[45]). The implication of this confusion of ethnicity and religion is that Muslims are considered to be 'not white'. This gives rise to a second binary, that of White versus Muslim.

This second binary is clearly evident in the language used by mainstream media (one of the main source for people's knowledge, attitudes and ideologies[46]): 'whites' and 'Muslims' are frequently presented as two mutually exclusive groups, often seen as in conflict with one another. For example: **"…similarities and differences between white and Muslim people…"**[47]; **"…**tension between **whites and Muslims…"**[48]; **"…**there will be a 'clash of civilisations' between British Muslims and white Britons…"[49]; **"…the troubles between Muslim and white youth."**[50]. The binary is all too often replicated (implicitly at least) in academic work, for example: "…with a 50-50 split between whites and Muslims"[51]; "…strong evidence for this also for both Whites and Muslims…"[52] "…the 9/11 bombings again opened up a rift between whites and Muslims,"[53].

The ethno-religious group of White British Muslim (that is individuals who self-identify as belonging to the White British ethnic group and chose Muslim for religious affiliation) appears to challenge the received binaries of West-Islam and White-Muslim. According to the England and Wales Census 2001 (the first to ask questions about both religion and ethnic group and so allow

identification of ethno-religious groups) there were 63,042 individuals who self-identified as being White British and Muslim (representing 4.1% of the total Muslim population)[54]. This figure rose to 77,272 in the Census 2011 (representing 2.9% of the total Muslim population - a relative fall from 2001)[55]. White British Muslims are not merely an insignificant anomaly; this group was the 26th largest ethno-religious group in 2001 (out of 128[56]) and the 34th largest in 2011 (out of 144[57]). Given the received binaries, how is this ethno-religious group to be explained?

An initial explanation for this group is that it simply consists of White British people who have converted to Islam. While figures for converts to Islam cannot be directly obtained from the census (as in England and Wales it only asks about current religious affiliation and does not ask about any previous religious affiliations) and previous attempts to present numbers have generally been seen as little better than 'guestimates', a recent study attempted to provide a reliable and robust estimate by analysing and comparing data from a number of national surveys[58]. The study suggested that only around 25,000 of the White British Muslims recorded in the Census 2011 are actually converts to Islam. This would leave some 52,000 White British Muslims still unaccounted for; however, approximately 29,000 of these are children (under 16)[59] and can be discounted at this stage[60]. This still leaves some 23,000 (just under half of the adult White British Muslim population) whose origin is unexplained.

Somewhat surprisingly White British Muslims are rarely mentioned in much of the academic work looking at Islam and Muslims in the United Kingdom. When it is mentioned, it is often just to note the existence of the group, with no further attempt to explore the meaning or implications of the existence of this group[61]. When mentioned, there is usually an implication that it is, in addition to White British converts, composed of individuals who probably should not have self-identified as White British – with a suggestion that the numbers are more a reflection of individuals who would normally be classified as Other White, or who come from Other White backgrounds[62].

In order evaluate this suggested explanation (and perhaps propose alternative explanations which do more than just negate the self-selected ethnic identity of individuals), the background of White British Muslims will be investigated using data available through the United Kingdom Household Longitudinal Study (also known as *Understanding Society*)[63] a large, multi-topic nationally

representative household survey in which all individuals aged 16 or more in selected households complete a number of questionnaires on various topics including Family Background, Ethnicity and National Identity, and Religion.

While most researchers now subscribe to some form of constructivist account of ethnic identity and reject primordialist accounts, almost all researchers agree that there are clear constraints on choice of ethnic identity[64]; the most basic constraints link ethnic identity to descent or 'heritage' (with ethnicity being inherited from parents and grandparents) and connections with a particular geographical area[65]. Choice of ethnic identity is further constrained by the need for any claim to an ethnic identity to be validated by others[66] (who will for the most part hold a simplistic descent view of ethnic identity). And while the Office for National Statistics states that ethnic group is a 'self-identification' measure[67], the actual question asked (referring to background), the instructions for assigning write-in answers, the instructions for imputing answers where none has been given, and the very concept of the 'mixed' ethnic groups, all support the significance of the descent view of ethnicity. A number of descent 'markers' can be seen as particularly relevant for the White British ethnic group: appropriate skin colour, citizenship of the United Kingdom, English as the first language, being born in the United Kingdom, parents from White British ethnic group, parents born in United Kingdom, grandparents born in United Kingdom, and national/geographical origin.

### Ethnicity of Parents

Ethnicity of parents arguably provides the simplest and most direct descent based measure of an individual's ethnic identity. *Understanding Society* asks individuals to identify the ethnic group of both parents, and so allows a profile of ethnicity of parents for White British Muslims to be generated and compared to that of the overall White British group (see Table 1).

For the overall White British group, both parents are identified as White British in 93.8% of cases and at least one parent is identified as White British in 98.3% of cases. The figures are significantly lower for White British Muslims, with both parents being identified as White British in only 53.5% of cases and at least one parent being identified as White British in 58.3% of cases. It follows that neither parent is identified as White British in only 1.7% of cases for the overall White British group, whereas this is the case for 41.7% of White British Muslims.

| Ethnic Group of Parents | Overall White British Group | White British Muslims |
| --- | --- | --- |
| Both White British | 93.8% | 53.5% |
| At least one White British | 98.3% | 58.3% |
| Neither White British | 1.7% | 41.7% |
| Both "white" | 1.0% | 4.8% |
| Neither White British nor "white" | 0.6% | 36.9% |
| Both Asian | 0.3% | 33.7% |

**Table 1:** Ethnic group of parents for overall White British group and White British Muslims
*Source:* based on analysis of data from *Understanding Society: Waves 1-5, 2009-2014*

Given the suggestion that many White British Muslims may in fact be individuals who would normally be classified as Other White, or who come from Other White backgrounds, it might be expected that a significant number would have indicated that their parents are 'white', while not actually being White British (that is, both parents would be identified as having European, Turkish or Middle Eastern backgrounds). However, this is the case for only 4.8% of White British Muslims. In a much larger proportion of cases neither parent is identified as 'white' - 36.9% of White British Muslims (compared to just 0.6% of the overall White British group), and perhaps more significantly in 33.7% of cases both parents are identified as from one of the Asian ethnic groups (as compared to just 0.3% of the overall White British group).

These figures suggest three main groupings of interest amongst adult White British Muslims: 1) those whose parents are both White British; 2) those whose parents are both 'white' (but not White British); and 3) those whose parents are both from one of the Asian ethnic groups. Additionally, there are several minor groupings which link back to these three main groupings – those who have at least one White British parent, those who have at least one 'white' parent and those whose parents are both from other ethnic groups. By drawing on some of the markers of the White British ethnic group identified in the previous section, a fuller description of the origins of individuals within each of these groupings may be obtained.

### Markers as Descriptors and as Predictors

For the purpose of this paper, four particular markers of the White British ethnic group are considered:

- Citizenship – the individual is a citizen of the United Kingdom;
- Ethnicity of parents – both parents are identified as White British;
- Country of birth of parents – both parents were born in the United Kingdom;
- Country of birth of grandparents – all grandparents were born in the United Kingdom.

These markers were chosen as they all fit well with the descent view of ethnic identity while avoiding the specific limitations that other markers may face. These markers can be used either as descriptors (by noting what percentage of individuals who self-identify as White British have all the markers) or as predictors (by noting the percentage of individuals with all the markers who self-identify as White British) (see Table 2).

| Group | As Descriptor | As Predictor |
|---|---|---|
| Overall White British group | 76.4% | 99.8% |
| White British Muslims | 40.6% | 100% |

**Table 2:** Combined markers for White British ethnic group as descriptors and predictors of ethnic identity for overall White British group and White British Muslims.
*Source:* based on analysis of data from *Understanding Society: Waves 1-5, 2009-2014*

The markers function extremely well as predictors of ethnic group when taken together; from the overall population, 99.8% of individuals who have all four of the markers will self-identify as White British and for Muslims, 100% of individuals who have all four of the markers will self-identify as White British. However, the markers function less well as descriptors; only 76.4% of those who self-identify as White British have all four of the markers and just 40.6% of those who self-identify as White British Muslims have all four of the markers.

### More Detailed Analysis of Distribution of Markers

A more detailed analysis of the distribution of the selected markers highlights particular differences (and similarities) both between and within the three main groupings of White British Muslims identified previously (see Table 3).

For those whose parents are both identified as White British, in 76% of cases both parents and all grandparents were born in the United Kingdom (on the

strictest interpretation of the descent view of ethnicity, such individuals would be classified as White British) – this sub-group matches those who had all four markers noted above. In 10% of cases both parents and most of the grandparents were born in the United Kingdom (on a weaker interpretation of the descent view of ethnicity, they may be classified as White British). In 5% of cases although both parents were born in the United Kingdom, all grandparents were born overseas (on the descent view of ethnicity, it would be expected that the parents would have been identified as other than White British, and so the individual's self-identification as White British is questionable). In 5% of cases both parents and all grandparents were born overseas (and so again it would be expected that the ethnicity of the parents would be other than White British and so question the individual's self-identification as White British).

| Country of birth of parents and grandparents | Ethnicity of Both Parents | | | "White" British by Descent |
|---|---|---|---|---|
| | White British | "White" | Asian | |
| Both parents UK, all grandparents UK | 76% | – | – | Strongly supported |
| Both parents UK, some grandparents UK | 10% | – | – | Weakly supported |
| Other combination | 4% | – | – | |
| One or both parents UK, all grandparents overseas | 5% | – | 6% | Not supported |
| Both parents overseas, all grandparents overseas | 5% | 100% | 94% | Not supported |

**Table 3:** Details of country of birth of parents and grandparents by ethnicity of parents for White British Muslims – with indicator of the validity of selection of White British identity under descent view of ethnic identity.
*Source:* based on analysis of data from *Understanding Society: Waves 1-5, 2009-2014*

For those whose parents are both identified as 'white' (but not White British), in 100% of cases, as would be expected, both parents and all grandparents were born overseas. Some 89% of these individuals were born overseas as well (and approximately 22% were not citizens of the United Kingdom). On the descent view of ethnicity, it would be expected that the parents would have been identified as other than White British, and so the individual's self-identification as White British is questionable.

For those whose parents are both identified as from one of the Asian ethnic groups, in 94% of cases, as would be expected, both parents and all grandparents were born in a South Asian country. Approximately 34% of these individuals were born overseas as well (and some 7% were not citizens of the United Kingdom). In 6% of cases one or both parents were born in the United Kingdom, but all grandparents were born in a South Asian country. On the descent view of ethnicity, it would be expected that the parents would have been identified as of South Asian ethnicity, and so the individual's self-identification as White British is questionable.

### Considering National Identity and a Measure of Religiosity

Further insight into the three groupings of White British Muslims may be gained by analysing the choices about national identity and the difference religion makes to daily life (on a scale of 1 to 4, with 1 indicating that religion makes 'no difference' and 4 indicating that religion makes 'a great difference') – taken to be an indicator of religiosity. This also allows comparison back to the two 'parent' groups – the overall White British ethnic group and the overall Muslim group (see Table 4).

A majority (52%) of the overall White British group reported an identity linked to just one of the countries of the United Kingdom only (that is just English, or just Welsh, or just Scottish, or just Northern Irish), approximately 24% reported a British identity only, and a further 24% reported both a United Kingdom country identity and a British identity. The average religiosity score for this group was 2. The picture for all Muslims was significantly different; only 7% reported an identity linked to just one of the countries of the United Kingdom only, while 62% reported a British identity only and just 4% reported both a United Kingdom country identity and a British identity – most significantly some 27% reported a different national identity (that is neither a United Kingdom country identity nor a British

identity). The average religiosity score for Muslims was 3.5.

| National identity | White British | White British Muslim | Muslim |
|---|---|---|---|
| UK country only | 52% | 38% | 7% |
| British only | 24% | 47% | 62% |
| Both UK country and British | 24% | 14% | 4% |
| Other country | – | 1% | 27% |
| Religiosity score (1-4, Low to high) | 2.0 | 2.9 | 3.5 |

**Table 4:** National identity and religiosity score for the overall White British group, White British Muslims and the overall Muslim group.
*Source:* based on analysis of data from *Understanding Society: Waves 1-5, 2009-2014*

Perhaps unsurprisingly, White British Muslims tend to fall somewhere between the two 'parent' groups; 38% reported an identity linked to just one of the countries of the United Kingdom only, while 47% reported a British identity only and 14% reported both a United Kingdom country identity and a British identity. The average religiosity score for White British Muslims was 2.9. However, when the White British Muslim group is broken down into the three groupings based on ethnicity of parents (and the grouping of those whose parents are identified as White British is further sub-divided based on adherence to descent rules of ethnicity for parents), significant intra-group variation becomes evident (see Table 5).

Those whose parents are both identified as White British and who pass the strictest descent test reported national identity almost identical to the overall White British group, although the average religiosity score was 2.7 (almost a point higher). The situation was very similar for those whose parents are both identified as White British and who pass a weaker descent test - 50% report an identity linked to just one of the countries of the United Kingdom only, 30% report British identity only, and 20% report both a United Kingdom country identity and a British identity, while the average religiosity score was 2.2, much closer to that of the overall White British group.

Those whose parents are both identified as White British, but whose self-identification as White British may be questioned under the descent view of ethnicity have a more mixed profile; 50% reported an identity linked to just

| National identity | Both parents White British, and on descent view of ethnicity | | | Both parents "white" | Both parents Asian |
|---|---|---|---|---|---|
| | Strongly supported | Weakly supported | Not supported | | |
| UK country only | 51% | 50% | 50% | 22% | 19% |
| British only | 25% | 30% | 40% | 67% | 75% |
| Both UK country and British | 24% | 20% | 10% | – | 5% |
| Other country | – | – | – | 11% | 1% |
| Religiosity score (1-4, Low to high) | 2.7 | 2.2 | 3.4 | 2.7 | 3.5% |

**Table 5:** National identity and religiosity score for three main groupings of White British Muslims (by ethnicity of parents) – with main group sub-divided according to validity of selection of White British identity under descent view of ethnic identity.
*Source:* based on analysis of data from *Understanding Society: Waves 1-5, 2009-2014*

one of the countries of the United Kingdom only (similar to others in the grouping and close to the overall White British group), while 40% reported a British identity only and only 10% reported both a United Kingdom country identity and a British identity. The average religiosity score was 3.4 – more in line with Muslims overall.

Those whose parents are both identified as 'white' (but not White British) and those whose parents are both identified as from one of the Asian ethnic groups have similar profiles to each other and both differed significantly from those whose parents are both identified as White British. Around one fifth (22% for those with 'white' parents and 19% for those with Asian parents) reported an identity linked to just one of the countries of the United Kingdom only, while two-thirds to three-quarters (67% for those with 'white' parents and 75% for those with Asian parents) reported a British identity only and a small minority (5% for those with Asian parents) reported both a United Kingdom country identity and a British identity. While 11% of those with 'white' parents reported a different national identity, the figure for those with Asian parents was just 1% (compared to the 27% for Muslims overall). Both these groupings saw religion making more of difference, with an average religiosity score of 2.7 for those with "white" parents and 3.5 (the same as Muslims overall) for those with Asian parents.

## Conclusions

It is suggested that the three main groupings identified previously by reference to a simple descent based measure (ethnicity of parents) form the basis of three distinct and equally interesting categories – although membership of each category is not restricted to any one particular grouping.

The first category is made up of those White British Muslims who are (at least) third generation White British (although the label 'White British' will in many cases not have been applicable for the earlier generations). In many ways this category is indistinguishable from the overall White British group – apart from the key attribute (as far as this research is concerned) of being Muslim. Based on data from *Understanding Society* this category accounts for approximately 41% of adult White British Muslims (and so would number some 20,000 according to the Census 2011). In all likelihood this category largely (although not exclusively) corresponds to those who have converted to Islam. Individuals in this category were always 'White British', but have become Muslim.

The second category corresponds to the group that other researchers have suggested may explain the White British Muslim group – although on the data available it would appear that this category accounts for a much smaller proportion of White British Muslims than may previously have been thought. This category consists of individuals whose parents and grandparents belong to a non-United Kingdom 'white' ethnic group (from Europe, Turkey, Cyprus, and the Middle East), but who can now justify self-identifying as White British (as they are whites who are British, to deconstruct the ethnic group to its two most basic elements). This category accounts for around 5% of adult White British Muslims (and so would number around 2,500 according to the Census 2011). Individuals in this category were always 'white' (and in many cases, although not always, Muslim), but have become British.

The final major category is one which appears to have gone largely unnoticed until now, although, based on the data from *Understanding Society* this category is not insignificant in size – accounting for some 39% of adult White British Muslims (and so would number at least 19,000 according to the Census 2011). This category consists of individuals whose families trace their origin to South Asia and are the first or second generation to born in the United Kingdom, but who choose to identify with the majority ethnic group in the United Kingdom (despite clearly retaining their religion and strong

religiosity). Individuals in this category were almost always Muslim and are second if not third generation British, but would probably be classified as 'Asian' by others and so can be said to have become White.

This final category does more than challenge the received binaries of West-Islam and White-Muslim; it appears to actively deconstruct the accepted notions of ethnic identity and questions the whole notion of the majority White British group as the 'norm' against which minority groups are often compared. The act of 'becoming White' of this last category should not be understood as an attempt at 'passing' (normally where an individual from a minority group passes themselves off as belonging to a majority group) as there is no evidence of fabrication or concealment which would necessarily be a part of any approach for passing. It could however be seen more as an indicator of the further integration called for by so many members of the majority ethnic group and authorities. There also may be similarities with the phenomenon of the widening of the borders of whiteness identified by some researchers in the United States[68] (where it is suggested that Hispanic and Asian Americans may be following the path already undertaken by southern/eastern Europeans in becoming 'white'). A better understanding of why members of this category choose to self-identify in the way they do as White British Muslims may well provide a useful insight to the process of integration of Muslims in the United Kingdom as well as better identifying the barriers to integration inherent in societal notions of ethnic and religious belonging.

Finally, it should be noted that there are other categories besides the three noted which also deserve further investigation - for example individuals of 'mixed' descent who choose to identify with the ethnic identity of one parent only or children who been assigned an ethno-religious identity by parents (which may say more about the parents views on identity than the child's). The *Understanding Society* data set provides unparalleled opportunities to examine further the ethnic and religious identity of White British Muslims (and other ethno-religious groups), but direct qualitative research with members of the various categories of White British Muslims will also be necessary in order to fully explore their motivations for choosing particular ethnic and religious identities. While some of the categories may be relatively easy to access, others (particularly the third category) will be much more problematic (and may explain why this category appears not to have been much noticed to date).

<center>3</center>

# Lowering the Gaze, Shaping Desires – A Perspective on Islamic Masculinity in Germany

MIRIAM KURZ[69]

## Abstract

*This paper examines a set of mosque lectures delivered by a German imam, outlining an ideal of Islamic masculinity which is based on the exercise of "practices of the self" (Foucault) working on a mental, bodily, and emotional level. Drawing on Michel Foucault's understanding of morality, Aristotle's conception of ethics and habitus formation, and Monique Scheer's work on emotional practices, the article shows how this imam envisions his audience to achieve long-term changes in their emotional dispositions and thus to strengthen their faith and compliance with Islamic gender-specific norms of conduct. The article uses the lowering of the gaze as a central bodily technique and analyses it in its function for the overall project of ethical self-formation. I argue that the imam in question considers emotions as objects of conscious and reflexive teaching and training. Extending the existing scholarship on Islamic piety, the paper pays particular attention to the gendered nature of self-formation. It inquires into the relational dimension of masculinities within social power structures, while engaging with Raewyn Connell's concept of "hegemonic masculinity."*

## Introduction

On a Monday evening in a mosque center in one of the lively and multi-ethnic quarters of Berlin, Yunus Kadir[70] becomes passionate in front of his youthful audience. Dwelling on the temptations of women to which men are likely to give in, with his voice acquiring a deeper and more serious tone, he turns particularly to his male listeners: "The *fitna* of women. It concerns all of us. […] A very, very big temptation. (-) But despite all, we have to resist it. It is our obligation. Allah requires us to do so. He even requires us to close all the preliminary stages that might lead to *zina* , to fornication, to close all of them. By doing what? By lowering our gazes."[71]

Statements like this can often be heard in the classes of Yunus Kadir, a German, Berlin-based imam in his late thirties. The appeal to exercise self-discipline and lower one's gaze is symptomatic of his vision of ethical conduct

in a social context where Islamic norms are not the dominant ones. Kadir offers Islamic instruction in German in a quarter of Berlin with a considerable number of Muslim residents. The imam himself has Arabic family ties and has spent several years studying Islam in Arabic countries. Having grown up in German society, he frequently addresses the specificities of this context for the pursuit of an Islamic way of life.

In this paper, I analyze some prominent ideas that come up in his lectures, with a special focus on bodily practices, emotions, and constructions of masculinity. I refer to a set of thematically related mosque lectures held between 2011 and 2016 (accessed partly through participant observation, partly as video material online) where Kadir delves into the Islamic concept of modesty (*haya*) and the seductive potential of women for men (*fitna*). In these lectures, Kadir outlines a vision of Islamic masculinity based on the exercise of self-discipline in the form of mental, bodily, and emotional practices. Its long-term goal is to (re-)shape inner dispositions in a way that complies with a form of Islamic morality. In my analysis of Kadir's lectures, I draw on the understanding of "practices of the self"[72] as developed by Michel Foucault in his *History of Sexuality*.[73] In Foucault's take on ethical self-formation, attention is paid to different ways in which one can relate to a given moral code and in which one can conduct oneself with regard to this moral code as different "modes of subjectivation."[74] An individual determines the part of her/himself, the substance that shall be the target of the ethical work s/he performs. Practices of the self are applied in order to monitor and control oneself and transform oneself into an ethical subject (which makes the teleology of this undertaking apparent).

While the Foucauldian framework is widely used within the Anthropology of Islam, there is a lack of attention to ethical self-formation as a gendered process and to the related constructions of masculinity and femininity.[75] Also, the focus on self-cultivation often comes at the expense of an analysis of social power structures: The hierarchies of moral codes, of masculinities (and femininities), and of various groups of society are not foregrounded. To tackle these shortcomings, I additionally draw on Raewyn Connell's work on the relationality of masculinities in my analytical approach and include a discussion of social hierarchies that manifest in Kadir's lectures. With this analytical framework, my approach proposes a way of studying masculinities in Islamic contexts without locating these forms of masculinity on a tradition-modernity scale as some existing scholarship does.[76]

Kadir's teaching attracts a predominantly young, German-speaking, and ethnically mixed Muslim audience. His weekly lessons take place in the spacious prayer room of a mosque, which is located in a busy neighborhood with several grocery stores and fast food places around that display the ethnic and cultural diversity of the area. While the building itself does not make a particularly inviting appearance, the prayer room spreads a different flair. Carpeted and permeated by light, it provides a nice and calm atmosphere to sit, chat, read the Qur'an, study, and relax. During his lessons, the imam sits at a table in the front of the prayer room, facing his male and female listeners. He usually encourages male participants to gather in the front rows to make sure that they do not annoy the women present in the room. During my observations, I sat together with the ladies in the back.[77]

In the selected lectures, Kadir describes *haya*, which can be translated as modesty or sense of shame, as a relevant moral code for both men and women. Whereas elsewhere it has been called "one of the most feminine of Islamic virtues,"[78] in the lectures I analyzed, Kadir explicitly links *haya* to men and male behavior within the German context. More particularly, he addresses sexual practices that he considers illicit, such as masturbation and pornography consumption. It is worth adding that he implicitly conceptualizes such illicit practices as specifically male issues. Touching upon these sexual practices, pre-marriage relationships, gender relations, and certain codes of masculinity that Kadir considers deviant from Islamic rules of conduct, he constructs a specifically Islamic form of masculinity that I will discuss in more detail throughout this paper.

Kadir ascribes relevance to the virtue of *haya* for Muslim men both with regard to fellow Muslims who (from his point of view) do not comply with the demands of *haya* and with regard to German society and the lack of morality he sees at stake there.[79] He thereby contrasts various forms of 'negative' or 'illicit' male behavior as also practiced by fellow Muslims with practices based on *haya* that form part of the moral conduct he envisions for his male listeners. Among the forms that he devalues are the display of physical strength and attractiveness through tight-fitted or short clothing, illicit sexual behavior (masturbation, pornography consumption, extra- and pre-marital intercourse), and unreserved interactions between sexes (e.g. visiting mixed swimming pools, flirting). According to Kadir, the lack of *haya* is the reason why Muslim men may behave in illicit ways. Therefore, the acquisition of *haya* is the central measure to prevent men from practices that

can end in a vicious circle, and it is also crucial to leave this vicious circle once it has been entered.

## Lowering the Gaze

But how exactly is *haya* to be acquired, according to Kadir? The imam urges his male listeners to perform a number of practices of the self in order to incorporate *haya* and comply with an ideal of Islamic gender-specific behavior. The most central of these practices is the lowering of the gaze (*ghadd al-basar*). In Kadir's conception, the gaze is to be seen as the "envoy of fornication."[80] Therefore, he argues that it is crucial for his listeners to control their gazes in order to prevent themselves from becoming 'addicted' to illicit sexual practices. The gaze is the gateway between the outside world and the individual. What the (male) individual perceives visually is processed in the brain, and next translated into feelings, desires, and imaginations. According to Kadir, then, looking at uncovered women displaying their hair, cleavages, and other parts of their skin in the street or in a public swimming pool, looking at sexualized advertisement in shopping malls and on the Internet inspires men to have sexual fantasies. This, in turn, eventually leads to the consumption of pornographic material and to sexual practices such as masturbation and extra-marital sexual intercourse. It is the entrance point to a vicious circle, to a process of sexualization and de-moralization. Kadir warns his audience that they can easily become addicted to these illicit practices unless they make efforts to control and discipline themselves. In his lectures, the eyes and the practice of looking become a site of ethical conduct and therefore in need of being re-fashioned.

In a context like the German one which is not governed by Islamic dress codes, Kadir alerts that it is the responsibility of each individual male subject to regulate his sensual perceptions in order not to enter the vicious circle of increasing desire and illegitimate practices. Kadir frequently refers to specific challenges and temptations the German context poses to Muslims' ethical self-fashioning. With regard to notions of morality, he usually draws a distinction between German society (or Western societies more broadly) as "a society where we are surrounded by *fitan* [pl. of *fitna*] from all sides"[81] and a morally positively connoted community of Muslims.[82] Kadir sets Islamic moral codes apart from the moral codes he conceives of as hegemonic in German society. For example, the performance of what could be labelled "male coolness" after Kadir (including flirting, having girlfriends, interacting

physically with girls, not being ashamed or showing shame), is localized in German society by the imam. He casts the cool, young male as the ideal of youthful masculinity in German society.[83] Besides drawing lines between shifting configurations of 'us' and 'them,' Kadir more generally diagnoses a decline in morality in German and Western societies. This is exemplified by the use of temporal markers such as 'in our times' and 'nowadays,' when he refers to practices considered to be immoral. With the help of spatial and temporal context markers Kadir constructs Islamic moral codes as countering socially hegemonic moral codes in Germany. He thereby questions habitualized social conventions of clothing, youthfulness, and sexuality and criticizes the way these are naturalized and portrayed as social consensus in public discourses.[84]

Kadir sketches out a landscape of immorality against his masculinity code of *haya* with two prominent topoi of "the [German] street"[85] and "the [German] summer."[86] In Kadir's lessons, the German street appears as a site of seduction which nourishes sexual fantasies and desires of undisciplined men: "But even this [having intercourse with one's wife] might not suffice any longer when one has seen all that can be seen in the street. When one has looked at everything that can be seen in the street."[87] The street's potential of temptation increases in Germany in the summer, as Kadir warns his male listeners on several occasions:

> And these images, they pile up. I only need to go outside. Even on the way to the mosque, on the way to university, on the way to work, to school. And I see lots and lots of images in front of me, especially now during the summer. Lots and lots of images in front of me.[88]

Summer is construed as a special challenge for men who want to comply with *haya* . This is supported by Kadir's proper warning that "[…] we are facing a new summer now."[89] Thus, the imam includes the plea for steadfastness in the summer into his prayer (*du'a'* ) at the end of the lesson: "May Allah *subhanahu wa-ta'ala* protect us from any kind of *fitna*, may Allah *subhanahu wa-ta'ala* make us bear up, especially now in the summer! May Allah *subhanahu wa-ta'ala* let us survive this summer as well as we can […]."[90] Kadir's comments on the German context as outlined here show how the social and local context matters for visions and practices of self-fashioning and discussions of ethics. The German context requires specific regimes of self-restraint and practices of the self that differ from the requirements of other (i.e. predominantly Islamic) contexts.

It is in light of these contextual specificities that Kadir's appeals for ethical self-fashioning and the application of disciplinary practices gain strength. Given the nature of the German street and the nature of the 'uncontrolled man' who is quickly drawn into a circle of unlawful sexualization, men committed to Islamic morals are called to work on their practice of looking. The gaze is at the center of controlling what they see, which is required to regulate their thoughts and feelings. For this reason, Kadir considers the male gaze a central starting point for the cultivation of practices of the self. He advises his male listeners to train themselves to avert their eyes whenever they see anything unsuitable for them: "This is why I'm telling you, brothers, really, this is the most important thing and the alpha and omega. Lower your gazes. And be assured, when you lower your gazes, Allah *subhanahu wa-taʿala* will give you an *īmān* in reward, the sweetness of which you will feel in your hearts."[91] The manner of looking, thus, becomes the object of ethical re-fashioning. From Kadir's perspective, his audience need to educate themselves to look in an Islamically correct way. As discussed below, this appeal can be read in Aristotelian terms.

### Shaping Desires, Forming Ethical Selves

By repeated practice, Kadir suggests, lowering one's gaze finally turns into a habit. His male audience will be able to transform their desires in a way that complies with his vision of gender-related conduct, he promises:

> And anyone who tried knows it. He sees something he absolutely wants to look at, absolutely. (-) It's tempting. I mean we know, Allah has created us like this. Allah created man and woman so that they attract each other. That's how it is. It's tempting until the cows come home – I want to look! But I force myself not to do so. *Wa-llahi*, the same moment, the same moment you will feel this *īmān* in your heart. And the second time, it will be easier for you than the first time. And the third time, it will be even easier. And at some point you will walk around without feeling any need to gaze at a woman. This you can achieve. You only have to bring yourself to do it in the beginning. You need this strength and then you will have the feeling, *ṣubḥān* Allah, I feel humbleness in prayer. I can focus in prayer, I don't have this desire for sexual satisfaction, masturbation or other things anymore.[92]

In this way, Kadir expects his listeners to achieve long-term changes in the structure of their inner dispositions (emotions including desires and spiritual state). In the long run, so he asserts, the men he addresses will be able to overcome their desires to gaze at women and will develop a stronger faith. This emphasizes how powerful Kadir considers the practice of lowering the gaze to be.

Further techniques Kadir suggests for the incorporation of *haya* include sartorial practices, practices of remembering Allah, and being geared to role models. Hence, besides bodily practices Kadir encourages his listeners to work with practices starting on the mental level. He advises the young men to keep reminding themselves of the fact that they are visible to Allah at any moment: "For though you can't see Him, He sees you. So to have this consciousness that Allah *subhanahu wa-ta'ala*, He sees you. And out of this consciousness that Allah *ta'ala* looks upon me, this sense of shame arises. I feel ashamed. I don't feel comfortable doing it [sins/ illegitimate deeds]."[93] Here, a mental technique is proposed in order to invoke a feeling of shame and gradually cultivate an Islamic habitus[94] involving the virtue of *haya* . In addition to the passages cited previously, where Kadir demands the cultivation of self-discipline in the public sphere, he specifically encourages men to perform ethical practices in private.

Striking in Kadir's approach is the underlying assumption that desires and emotions more generally can consciously be learned, shaped, and reshaped. This affirms that emotions actually have to be conceived of as a kind of social practice rather than something 'natural,' as Monique Scheer has argued.[95] Scheer suggests that emotions as practice are dependent on training which becomes even more apparent in the following quote of Kadir's:

> Only two months left until Ramadan. And if I don't control myself now, if I don't manage to lower my gaze now, *wa-llahi*, I will fast during Ramadan without (-) feeling anything while fasting. Because if I don't manage now, I won't manage in Ramadan either. That's why I start now. Because these gazes destroy the heart.[96]

This passage also reveals how the practice of lowering the gaze is connected to feeling 'the right way.' Kadir articulates expectations about how one should feel while fasting. In his view, fasting properly means that certain emotions need to be felt, otherwise the fasting is considered to be of minor value. This again shows how training is required with regard to emotions. Scheer identifies different types of emotional practices, among them the practice of mobilizing emotions, which involves evoking emotions as well as changing or removing emotions that are not wanted or not considered appropriate. She designates emotional practices as "manipulations of body and mind."[97] This connects well, I think, to the way Kadir wants his audience to target their bodies and minds in order to work on their emotional dispositions and faith. It is apparent how bodily and mental practices of the self in Kadir's lectures can be conceptualized as emotional practices aiming at mobilizing and also

at regulating emotions. Scheer emphasizes that the formation of a habitus in this sense depends on the close interplay of the practical and rational dimension. Kadir's teachings, indeed, reveal this close intertwining of mind and body, of mental and bodily practices in shaping an Islamic habitus and strengthening piety.

Coming back to Kadir's appeal to lower the gaze in order to make fasting during Ramadan an emotional and spiritual experience, I would like to draw attention to the Aristotelian notion of habitus and character education at play.[98] In his Nicomachean Ethics, Aristotle places emphasis on repeated practice in shaping one's habitus (or dispositions, as Rackham has it in his English translation).[99] As a basic principle, he distinguishes two types of virtues: intellectual and moral. While the acquisition of intellectual virtues, such as wisdom and intelligence, depends on instruction, the acquisition of moral virtues, such as temperance, rests on practice and habituation.[100] He emphasizes that "none of the moral virtues is engendered in us by nature,"[101] but they need to be learned through practice:

> The virtues […] we acquire by first having actually practised them, just as we do the arts. We learn an art or craft by doing the things that we shall have to do when we have learnt it: for instance, men become builders by building houses, harpers by playing on the harp. Similarly [sic] we become just by doing just acts, temperate by doing temperate acts, brave by doing brave acts.[102]

By analogy, in Kadir's lectures the assumption that one acquires *haya* by doing *haya* is obvious. According to Aristotle, moral virtues are something one needs to cultivate. Therefore, it is important to guard one's actions because they shape the habitus:

> In a word, our moral dispositions are formed as a result of the corresponding activities. Hence it is incumbent on us to control the character of our activities, since on the quality of these depends the quality of our dispositions. It is therefore not of small moment whether we are trained from childhood in one set of habits or another; on the contrary it is of very great, or rather of supreme, importance.[103]

The idea of training and the assumption that there are good or appropriate habits and vicious habits correspond with Kadir's teachings, in particular when we recall his remarks on the vicious circle. The self-transformation that takes place in the process of training and habitualization is illustrated by both Aristotle's writings and Kadir's lectures. As Aristotle states: "We become temperate by abstaining from pleasures, and at the same time we are best able to abstain from pleasures when we have become temperate."[104]

Referring back to the Foucauldian framework used earlier, we can understand the "abstaining from pleasures" as the exercise of practices of the self. In Kadir's terms this is for example the lowering of the gaze, which changes the relationship between self and the respective moral code and leads to the incorporation of a certain moral virtue (in Aristotle's example temperance, in Kadir's example *haya*). Having incorporated this virtue and thus having acquired a certain habitus, it becomes easy to behave accordingly. Hence, Aristotle ascribes great importance to good education in order "to like and dislike the proper things,"[105] which is central in developing a virtuous character. Pleasure and pain occupy a special position in this undertaking: "[T]o feel pleasure and pain rightly or wrongly has a great effect on conduct."[106]

The underlying idea of the necessity to learn to feel the right way and "to like and dislike the proper things"[107] speak from Kadir's comments on the proximity of Ramadan cited previously, where he stresses that fasting rightly requires feeling something (and the ability to have the proper feelings needs to be trained), and from his comments on the practice of lowering the gaze, where this practice becomes more and more linked with positive feelings. Self-discipline and piety are closely intertwined in the imam's approach. Underlying the cultivation of ethical practices is the teleological project of conforming to Allah's will, and Allah rewards the practitioners with his love. As Kadir promises, men who come closer to Allah through their behavior will immediately experience an increase in faith, "the sweetness of which [they] can feel in [their] heart[s]."[108] Thus, the male subject addressed by Kadir has to learn to associate pleasure with the exercise of self-restraint, as he has to learn to use his vision in an appropriate way, instead of giving into his desires and experiencing pleasure through illegitimate practices. The effort it takes to implement the new habit of lowering one's gaze is experienced as painful at first, but the experience of pain changes when the composition of one's habitus is transformed.[109]

Having shown that emotions and faith are understood as objects of pedagogy in Kadir's lectures, I would like to take a closer look at the role of the body in the project of acquiring a male, Islamic habitus. Considering the central role of practices involving the body in the vicious circle and among the practices of the self Kadir advocates, I suggest that the body in his lectures is conceptualized "as the *self-developable* means for achieving a range of human objects – from styles of physical movement (for example, walking), through modes of emotional being (for example, composure), to kinds of spiritual experience (for example, mystical states)."[110] In her seminal work on female

mosque movements in Egypt, Saba Mahmood highlighted the significance of bodily acts for shaping emotions, increasing piety, and transforming the self. According to Mahmood, bodily acts "are the *critical markers* of piety as well as the *ineluctable means* by which one trains oneself to be pious."[111]

Following Asad and Mahmood, we can understand Kadir's instructions as an appeal for ethical self-formation which takes the body and bodily acts as a means to achieve piety and a means to acquire *haya* . Self and norm must be brought closer on a bodily, mental, and emotional level. This complex project of applying practices of the self in order to shape the inner and the outer self according to Islamic norms reflects the profoundness of the related "modes of subjectivation"[112] and the teleology of moral conduct,[113] the long-term goal of living an Islamic and ethical life. Additionally, it shows how mind, body, emotions, and faith are closely intertwined in Kadir's approach.

To achieve the long-term transformation of different dimensions of the self, the technique of lowering one's gaze, along with other techniques mentioned in this paper and in Kadir's lectures, must be implemented in his listeners' everyday lives, as the imam emphasizes. This shows how 'ordinary' everyday practices (such as going by bus or walking down the street) can acquire a pious meaning if carried out with a certain intention. In this sense, Kadir expects his male listeners to constantly and critically assess their thoughts, feelings, and behavior and to (re-)shape and adjust them to the Islamic rules of conduct.

## Masculinities

As the analysis of Kadir's lectures shows, relating to moral codes and implementing morally inspired practices of the self are always gendered. Concrete practices that men should perform or abstain from are related to their own gendered bodies and to women's bodies.[114] Kadir's outline of Islamic masculinity involves a particular relation to the self and a particular relation of distance to the female body. Ethical self-formation in this regard is a gendered phenomenon. The moral codes this imam refers to (such as male coolness or *haya* ) can be understood as masculinity codes in this context.

Masculinity is socially constructed and is a relational category, as Raewyn Connell argues.[115] Since masculinity is neither a stable component of a person's gender identity nor a universal pattern of attitudes and behavior, it

is worth speaking of masculinities in the plural form to emphasize the diversity and fluidity of masculinity constructions. Connell importantly stresses that men and masculinities are not only differentiated from women and femininities, but that different patterns of masculinity are distinguished from each other.[116] Attending to the hierarchies among men and masculinities, in her influential book she argues that hegemony, complicity, subordination, and marginalization are "the main patterns of masculinity in the current Western gender order."[117]

Although her categorization has also received critique,[118] in the context under investigation it is important to mention that the idea of subordinated and marginalized masculinities departs from the insight that multiple categories of social stratification, and not only gender, need to be taken into consideration when studying configurations of gender practice. Race, ethnicity, and religious affiliation, to name but a few, also play into the configuration of hierarchies among masculinities in society. Social hierarchies of men and masculinities are also apparent in Kadir's teachings. When elaborating on licit and illicit ways of *doing masculinity*, Kadir refers to socially hegemonic *and* marginalized forms of masculinity. While a hegemonic version of masculinity is the strong, 'cool man' who has pre-marital sexual relations, the devout Muslim man (religiously and potentially also ethnically marked) would represent a form of marginalized masculinity.

This is especially apparent in the imam's remarks on strength and weakness. As he explains, a sense of shame is ('in our society' and 'in our times,' and especially for a man) often associated with weakness (and unmanliness with respect to a hegemonic ideal of masculinity): "Time and again there are people saying: Well, a sense of shame, feeling ashamed is actually not something good, why? Because it indicates weakness."[119] More specifically, Kadir refers to a hegemonic form of masculinity here which associates masculinity with boldness and strength, to then propose an alternative model of masculinity, challenging the link between a sense of shame and weakness. He suggests that being modest and shamefaced as a Muslim man is actually a sign of strength. Thereby, Kadir reinforces the link between masculinity and strength, which illustrates the power exercised by the pattern of masculinity that Kadir presents as a hegemonic one.

Calling attention to the hierarchies among various masculinities in Kadir's lectures and to the way he positions himself vis-à-vis certain masculinity codes

and practices brings social context into focus again. This seems important in a context such as the German one, where Muslim men are marked as religiously and often also ethnically different in relation to the white, secular, 'German' norm. Both in daily interactions and public discourse the Muslim man has become the quintessential Other. Marked Muslim men are therefore constantly confronted with stigmatizing, marginalizing, racializing, politicizing, and securitizing practices and narratives. The stereotyping and othering assumptions and narratives are often linked to masculinity constructions, mostly promoting the hypermasculinization and hyper-sexualization of Muslim men.[120]

## Conclusion

The analysis of Kadir's lectures showed that ethical self-formation takes on a clearly gendered form and is linked to constructions of masculinity which are in a hierarchical relation vis-à-vis each other. Especially in Islamic minority contexts, it is important to take these social hierarchies into account and not to neglect factors of social stratification apart from gender. This paper revealed how Kadir envisions the acquisition of *haya* as a moral virtue for Muslim men through the cultivation of practices of the self on various levels, thereby transforming their emotional dispositions. Attending to emotional practices, it has highlighted how piety and the exercise of self-discipline are closely intertwined in Kadir's teachings. I demonstrated how this undertaking can be analyzed combining a Foucauldian and Aristotelian theoretical framework, which does not preclude the possibility of consequential ethics,[121] but offers the possibility to avoid a dichotomous framing of Muslim men and masculinities as either traditional or modern. Studying Muslim men and masculinities with a focus on practices of the self and the intertwinement of emotions, habitus cultivation, and piety while investigating the relationality of social masculinity constructions offers new avenues of research at the intersection of the anthropology of Islam and the study of men and masculinities. In this sense, this paper presents a contribution to a more nuanced and hopefully promising academic discussion of masculinity constructions in Muslim minority contexts.

# National and Supranational Organisations

4

# Constructing Islam and Secularism in the German Islam Conference

TOBIAS MÜLLER

## Abstract

*The German Islam Conference (GIC) has been established as a "dialogue at eye level" between the German government, Muslim individuals and Islamic umbrella organizations. This paper analyses expectations towards Muslims expressed in central government publications. Moreover, the aims of the Conference are critically assessed in light of official rhetoric and the actual possibilities of Islamic actors to participate and influence the process of the conference. This paper demonstrates that beyond the intentions expressed by state agents, the aims of the Conference and the expectations towards Muslims prescribe major restructuring measures of the Muslim community, cooperation with security agencies and alignment with an undetermined set of "German values". Moreover, government rhetoric constructs Muslim communities as deficient in that they purportedly do not fulfill their duties as legitimate parts of German society. While the state officially acknowledges that it cannot intervene in theological debates and is thus unable to judge between different currents of Islam, the GIC has to be interpreted as a complex religious policy through which the state aims to create an Islam that matches for its desire for security and control of the Muslim population.*

## Introduction

The first decade of the twenty-first century has witnessed the establishment of Muslim consultation bodies in a variety of European countries.[122] In Germany, the *Deutsche Islam Konferenz* (German Islam Conference, GIC) has been established by a minister of the interior of the Christian Democratic Party (CDU) in 2006. All major Islamic umbrella organizations and more than twenty Muslim public figures accepted the invitation and have participated in the different stages of the GIC. While the official justification for the GIC was "dialogue on eye level",[123] scholars have suggested that the actual goals were rather to fight Islamic fundamentalism, to counter the social and spatial segregation of Muslim immigrants and to achieve compliance of the Muslim population with the state's politics of religion.[124]

There are three main reasons why a deeper understanding of the German Islam Conference is of great importance to the study of Muslims and Islam in Western Europe. First, the reasons given for the establishment of a state-run dialogue space reveal the tension within official state reasoning between welcoming Muslim citizens and a "moderate" form of Islam on the one hand, and the fear of increasing extremist tendencies that underpins the perceived need to publicly classify certain Islamic organizations as dangerous entities. Second, the GIC paradigmatically reveals the importance of German state-church law as guiding principle in state approaches towards dealing with Islam. The expectations expressed towards Muslims reveal the cul-de-sac of maintaining the constitutional status quo while trying to realise equal *de facto* treatment of Islamic organizations. Third, the analysis of the GIC can encourage scholars of Islam in Europe to understand these new forms of secular politics as an ongoing struggle over the redefinition of the legitimate boundary between politics and religion that change the "secular" nature of the European state.

Thus, the GIC, as an unprecedented intervention into the regulation of Islamic organizations and individuals in Germany, poses a number of challenges to the self-understanding of the German state as secular. Therefore, the main question this paper seeks to address is: *How are demands towards Muslims constructed in the context of the German Islam Conference?* In order to answer this question, this paper will analyse expectations towards Muslims expressed in several texts published by the German government. The first section scrutinises government rhetoric expressing expectations towards Muslims (2.) which are then systematically analysed in the following section (3.). Finally, the aims of the GIC are critically assessed in light of official rhetoric and the actual possibilities of Islamic actors to participate in and influence the process of the Conference (4.). The empirical findings of this paper will make a contribution to both the literature on Islam in Europe and the critical secularism literature. At the same time, recent theoretical contributions about the problematic relationship between law and religion, culminating in Sullivan's book *The impossibility of religious freedom*, and secularism as a dynamic problem-space, provide useful concepts for a better understanding of the empirical findings.[125]

**Government documents expressing expectations towards Muslims**

This section outlines some of the tensions between the "dialogue on eye level"

rhetoric of the assertedly secular German state and the expectations towards Muslims expressed by the government. Gabriele Hermani has praised the GIC as successful integration policy that proved the CDU to be a "modern catch-all party".[126] Moreover, Hermani affirmatively emphasises a comment made by Necla Kelek, a German feminist lawyer of Turkish decent who was part of the Conference, which can be summarized as follows: Islam needs a process of enlightenment, obstacles to integration are related to Islam and demands of Muslims such as religious education in state schools cannot be accepted as long as Muslims do not respect the "separation of the religious and the secular [*weltliche*] sphere".[127] Hermani's book is paradigmatic for perspectives that are prevalent in German media and large parts of the political and intellectual establishment that ignore the GIC's potentially strong influence on the image of Islam, Islamic organizations and every-day life of Muslims in Germany. Moreover, Hermani completely neglects the problems inherent in the idea of a secular state organising the religious field and judging what kind of Islam is representative and what kind of Islam is not acceptable.

Officially, Germany is a secular state that is neutral with regards to religion and *Weltanschauung*. This is reflected in the official rhetoric of the *Bundesministerium des Inneren* (BMI), the Federal Ministry of the Interior, expressed by an under-secretary of state in a GIC publication on hostility towards Muslims:

> "The secular constitutional state cannot express its opinion with regards to theological questions; it has no competence to decide what version of Islam as a religion is 'true', 'less true' or even a distorted picture. In contrast to that it is among its genuine tasks to stand up for the people that live here and to address generalising negative attributions in order to overcome them".[128]

However, in light of the rhetoric and topics discussed at the GIC, this raises several questions: If the state has to be indifferent with regards to theological issues such as questions regarding belief system, correct exercise and practice of religion, rules and norms enshrined in religious doctrine, religious identity, and relation to politics, how can the state demand religious persons to internalise values that might contradict their religious beliefs? Or, more fundamentally: How does the state decide which questions are theological and therefore cannot voice its opinion on? How can the state, the under-secretary of state or any other natural or juridical person delineate "theology" from philosophy, politics, law or even common sense?

In the following, four major policy documents will be scrutinised with regards

to the implicit and explicit expectations towards Muslims.[129] The documents include (1) the Coalition Agreement between the governing parties CDU, CSU and SPD of November 11, 2005;[130] (2) the answer of the German government to the second major interpellation by the Green Party regarding Islam in Germany of June 29, 2006;[131] (3) the online statement regarding the aims of the German Islam Conference of 2007;[132] and (4) the report on *Migration and Integration* published by the German Federal Ministry of the Interior in 2014.[133]

In the Coalition Agreement of 2005 only three out of 226 pages are dedicated to migration and integration. The heading of the respective part is "security for citizens", followed by the chapter headline "Domestic policy: Germany – a safe and free country". After that, the first topic is "organising security" followed by the section "managing migration – fostering integration". This already sets the tone for the strong security focus of the GIC.[134] The dialogue with Islam is mentioned along with a key goal: "clearly naming the differences which separate the partners in dialogue is a vital sign of mutual respect".[135] This indicates that the government is convinced of the existence of *separating* differences. While such documents are by nature most of the time written in a comparatively vague tone, this already indicates a clear division the authors seem to have in mind: That there exists a clear dichotomy between things that separate Islam from the German state and things that are compatible with it. Later on, one of the potentially "separating" policies is mentioned: The parties plan to make forced marriages a punishable offence. Moreover, the document states that "the equality of women and men will be included as a key focus in the inter-religious dialogue".[136]

The use of the term "inter-religious" is especially remarkable here since participants in a dialogue between, "inter", religions can by definition only be religious groups. If the state considers the dialogue with "Islam" itself as "inter-religious", it becomes clear that, consciously or unconsciously, the political parties see the state as representing or being dominated by a particular religion, in this case Protestant and Catholic Christianity. This wording is telling about the view state officials have on the religious neutrality of the state. In contrast to dialogue with the two major churches and the Jewish communities, where women have been continuously denied access to certain ministries, the government wants to focus on equality between men and women especially in an inter-religious dialogue. This suggests that the government aims at dialogue with the only "other" relevant religion out there which turns out to be Islam.

In the answer of the Federal Government to the major interpellation of the Green Party which was an inquiry into the realisation of equal rights of Muslim communities, the government reiterated the need to build a broad consensus on compliance with social principles and politics of religion.[137] Moreover, the government emphasised the call for "binding observance of the liberal democratic order".[138] Furthermore, the government expresses its wish that Muslim communities establish representative structures.

The basis for the dialogue of the GIC expressed in the press release published by the Federal Ministry of Interior, again, calls for the "full acceptance of the liberal-democratic basic order".[139] As this is stressed in one of the first sentences introducing state dialogue with Islam, the text seems to suggest that the acceptance of the liberal and democratic order cannot be taken for granted and has therefore to be requested. Ironically, organizations that do not respect these principles have not been invited anyway, as the case of the observation of the IGMG, the *Islamische Gemeinschaft Milli Gorus* (Islamic Community Milli Gorus), by the Federal Office for the Protection of the Constitution and its exclusion in the second round of the GIC shows. Therefore, even when explicitly dealing with the 99% of Muslims—this is the somewhat doubtful number the Federal Office for the Protection of the Constitution mentions[140]—that accept these principles in theory and practice, the state does not stop to repeat its call for "full acceptance" of these principles.

After assessing that second and third generation migrants have problems to integrate into the working population, the next sentence addresses the "imminent threat of so-called parallel societies […] and every form of fundamentalism".[141] While this statement does not make an explicit causal claim, the paragraph juxtaposes three topics that are not self-evidently connected phenomena. However, this rhetoric suggests a causal connection between integration into the workforce by second and third generation Muslims, parallel societies and fundamentalism. This is another securitising speech act that contributes to the amalgamation of socio-economic migration issues, Islam and security as a common problem-space.[142]

Finally, the statement of the BMI indicates that one aim of the GIC is that it should be discussed how religious practices can be aligned with the German constitutional order and "how and if Islam can do justice to the organisational requirements of German constitutional law on religion".[143] This statement reveals a central element of the perspective of the BMI. It is Muslim practices that should align themselves, it is the Muslims who should accept the legal

order and it is the Muslims that should meet organisational requirements. The question is not, how one could find ways to facilitate the free exercise of religion in the framework of the law *together* or even to try to adapt the legal system to the needs of Muslim practices and forms of organisation. In other words, the state demands compliance and the GIC is an instrument to achieve it.

The final document under scrutiny, the BMI report "Migration and Integration" provides a guideline of information on immigration law. A previous version included one section on Islam and one that links Islam with security concerns.[144] The updated version only includes the latter section. While the original text acknowledges that many Muslims in Germany are well-integrated, it continues to talk about issues such as "a lack of education", "social and emotional isolation", "so-called parallel societies" and "Islamist activities" which allegedly affect a large number of Muslims.[145] The establishment of a "dialogue" is justified as follows: "The GIC also makes an important contribution to preventive security policy. It helps to prevent both violent and legalistic Islamist activities, thereby helping to preserve the security and freedom of everyone in Germany regardless of their faith".[146] However, in the framework of this report and other publications, it is by no means clear what "legalistic" means. The definition of legalism, "Islamist organizations (…) that aim to establish ideas of social and individual life based on Islamist ideology through legal means" provided by the Federal Office for the Protection of the Constitution still depends on the blurry boundary between Islam and Islamism.[147]

In the section on Islamism, the people coming to Germany as political refugees and working to support the struggles in their home countries are described as a "latent threat to their home countries' facilities and interests in Germany".[148] Moreover, Islamist organizations are charged with "exploit[ing] democratic means to establish Islamist conditions in German society or at least try to find openings for organized Islamist activity in Germany, thus working against state efforts towards integration by trying to set up an Islamist parallel society".[149] Here, again, the government does not make a clear distinction between Islamic and Islamist organizations. Even if this was unintended, which is hard to imagine, given the hundreds of "experts" on Islam and security working at the security agencies, this government rhetoric contributes to forming a public opinion that lacks understanding of the differentiation between Islamic organizations, "Islamist" organizations and Islamist organizations that use violent means.

**Follow, denounce, reject and adopt: core expectations towards Muslims**

The analysis of these document can be systematically summarised in line with Rosenow-Williams' study of the normative context of Muslim organizations in Germany. Accordingly, there are five main expectations that Islamic organizations and Muslims face in the context of the GIC: 1. To follow the law, 2. To denounce Islamism and terrorism, 3. To reject "parallel societies" and to promote integration, 4. To adopt German values, and 5. To organise and to cooperate.[150] As the analysis of the government statements made clear, the expectation to follow the law does *not only* imply openly pledging allegiance to the constitutional order. It also implies to support and even to cooperate with the law enforcement agencies in their various operations against mosque communities.

The expectation to join the fight against the "Islamist threat" implies that some Islamic organizations are required to speak out and delineate themselves from other confessional and organisational communities. This can severely affect the relations and willingness to cooperate between different Islamic organizations, since some organizations have to distance themselves from others in order to be still able to cooperate with the state, as the case of IGMG demonstrates. The Islamic umbrella organisation *Islamrat für die Bundesrepublik Deutschland* (IRD, Islamic Council for the Federal Republic of Germany) with all its member organizations was excluded from the second phase of the GIC due to a law suit filed against one of its members, the IGMG. The charges were later dropped. Moreover, the expectation of active security cooperation requires a completely new dimension of organisational structures that significantly changes the appearance and organisational culture of Muslims in Germany. This clearly goes well beyond simply following the legal constitutional order.

The third expectation, to reject "parallel societies" and to promote integration requires from the organizations that their individual members improve their language skills and their involvement with the wider social community. Furthermore, the organizations are expected to engage with the respective political and local communities.[151] This expectation should be met by the organizations through engaging in inter-religious and inter-cultural dialogue and other events with local partners.

The fourth expectation, to accept German values, is very often seen, by both the government and the Islamic organizations, from an "either/or" rather than

an "as well as" perspective.[152] While the official language requires them to "participate in forming a consensus", this turns out to be a euphemism.[153] Rather than participating in the formation of such a consensus, as the case of fulfilling the requirements of state-church law demonstrates, organizations are expected to simply adapt the principles and values already established. While most Islamic organizations comply with this expectation by emphasising their support for German laws and the German value system, there are cases where this leads to conflict with individual members.[154] Often members want to cherish their local culture and traditions, and do *not* want to assimilate to German culture.

Regarding the fifth expectation, to organise and cooperate with the state, Islamic organizations are asked to fulfil a bridging function. The envisioned role seems to be that of an intermediary between the state and the organizations' members. They are held responsible to ensure that the "consensus" reaches the individual members and that every member complies with it.[155] Moreover, the state seems to encourage and privilege centralised and unified structures of Islamic organizations. This became evident in the state of Hesse, where the state urged Islamic organizations to form one single representative body that included the majority of Mosque communities. After this was achieved, the state government denied dealing with the body because of charges of Islamism against one of its members.[156]

Despite the efforts of the GIC, many organizations feel discriminated against, as Rosenow-William's interviews with members of major Islamic umbrella organizations demonstrate. Among the multiple reasons for this assessment are the laws governing German language acquisition, mandatory integration courses, naturalisation tests, the necessity to prove economic self-sufficiency, and the denial of dual citizenship of Turkish citizens.[157] On the other hand, the expectations to actively condemn terrorism has led to a joint prayer of 13 Islamic umbrella organizations on September 11, 2006, to commemorate the victims of 9/11. Moreover, after the attacks on the *Charlie Hebdo* office in Paris in January 2015, Islamic umbrella organizations called for a rally in front of the Brandenburg Gate in Berlin to condemn the attack. At the end of his speech at the rally, the chairman of the Central Council of Muslims Aiman Mazyek even shouted "Je suis Charlie", despite the widespread criticism of the way the prophet was associated with terrorism in the magazine.[158] Tellingly, even after organising a demonstration with more than 10.000 participants including the President of the Federal Republic of Germany, the Chancellor

and the Vice Chancellor, some media outlets were still not convinced about the "real" opinion of the Muslim majority. The RTL news journal lamented that "for a Muslim event there were too few Muslims. About 2000. Twice as many come when Erdogan engages in an election campaign in Berlin".[159] The headline on stern.de summarising the evening read "Almost more ministers than Muslims".[160] This anecdotal evidence of recent debates about the role Muslims are expected to play in the public sphere highlights the importance of the demands made towards Muslims by the government in institutionalised forums such as the German Islam Conference.

### The Islam Conference as an instrument to "enlighten" and restructure Islam without equal recognition

The following section complements the analysis of the expectations towards Islamic organizations in the previous section by examining the expressed aims of the GIC. The three main goals of the GIC can be summarised as follows: The security goal of the GIC was to prevent and fight "Islamism" and Fundamentalism (1), the integration policy goal was to counteract the segregation of Muslim immigrants (2), and the cooperation and accommodation goal was to achieve compliance of the Muslim population to state policies regarding society and religion (3).[161]

Musch claims that "the GIC has been established mainly due to security reasons".[162] The increasing securitisation of Islam and the association of and suspicion towards Muslims after 9/11 has fostered a climate where the need for a new policy approach towards Islam has been articulated ever more forcefully. In an interview in the week of the first session of the GIC, Minister of the Interior Wolfgang Schäuble explained why he invited Millî Görüş despite previous debates: he wanted to win over and convince as many Muslims as possible.[163]

However, he repeatedly emphasised that "every person living here has to accept and respect the German constitutional and legal order. We want an enlightened [*aufgeklärten*] Islam in our enlightened country".[164] In the course of the interview it is not made clear how these two sentences relate to each other and what Schäuble means by "enlightened". One possible interpretation is that he hopes by engaging in dialogue, a "spark of enlightenment" will infect Muslim representatives and will spread to the Muslim community. However, as he gave this answer to a question related to the invitation of the IGMG, it

is more likely that he sees it as a category based on which to judge Muslims. To pronounce that he welcomes enlightened Muslims in "our" country implies that he does not want Muslims that are not enlightened. Again, a group consisting of the "other" is being constructed, who is considered dangerous to the German legal and constitutional order. [165]

The word 'enlightenment', however, is so undetermined that it can rather be understood as a floating signifier. Because Schäuble most probably did not primarily refer to the historical period of 18th century European Enlightenment, the term seems primarily to be an identity marker that is associated with concepts like secularism, democracy, individualism, modernity, liberalism and rationality. It might have been his intention to leave room for interpretation. What becomes clear, however, is that the security goal of the GIC is not only about some militant groups. The conflict and the security threat referred to are much larger, they are about a very broad, societal, cultural and religious concept of identity and security. As Agrama pointed out, when it comes to the question of secular power, the stakes are always high and fundamental.[166] Schäuble's rhetoric of enlightenment implicitly reminds the public about this fact.

The GIC has been launched as a parallel initiative to the National Integration Summit and the establishment of the National Integration Plan. Remarkably, Islamic organizations were not officially invited to the elaboration of the National Integration Plan which shows that the main aim of the dialogue with Islam was something different.[167] In the answer to the Green Party interpellation on the equal treatment of Islam in Germany the German government declared that "The goal of the conference is a better religious and social integration of the Muslim population in Germany. On the one hand, this is expected to serve the prevention of Islamism and Terrorism. On the other hand, the segmentation of Muslims in Germany is being countered".[168] Here it becomes clear that the goal of integration and the goal of security are inextricably linked. The reasoning of the government follows the line that Islamism and terrorism can be countered by integration which is a goal of the GIC. How does that work *in concreto*? The government indicates that the mechanism by which this is to be achieved is "compliance" to the "broad consensus" that is to be established, or rather, as demonstrated above, to be adopted by the Islamic organizations and *a fortiori* the Muslim population. It is important to stress that while integration is the explicit goal of the GIC, the means by which it should be achieved remain unclear. For example,

granting equal rights to Islamic organizations and Mosque communities by accepting them as religious communities or even granting them the status of a corporation of public law is nowhere mentioned as an aim of the GIC. Therefore, it becomes clear that the main work to be done and the main responsibility for integration lies with Islamic organizations and Muslims themselves. Dialogue about integration, in this sense, means that the government explains to the Islamic organizations what their responsibilities are. In other words, rather than a mechanism for input, for example to advise the government on matters of integration policy, the GIC is a policy mechanism which is output-oriented, indirectly influencing the targeted population through means of intermediary institutions, not through legislative changes.

The third goal of the GIC has been expressed by Schäuble as follows. He claims that we need "a development in the Islamic community in our country so that it becomes capable of partnership [*partnerschaftsfähig*]".[169] As described above in the section on the expectations towards Muslims expressed in the German Islam Conference, one of its aims is to fulfil the state's desire for an organised Islam. Schäuble's claim, however, also includes an implicit statement on the status quo: Muslims have to *become* capable to be partners. This implies that they are lacking this capacity at the moment. This reveals a high level of distrust by the minister towards Islamic organizations—the state does not even consider them to be capable of engaging in a partnership yet.

A central requirement for this cooperation is, as mentioned above, a representative organisational structure. Talking about its relation to Islam, the government statement claims that the relations between religious communities and the state would benefit if the state could cooperate with a single contact person that would represent as many adherents of a religion as possible.[170] Schäuble explains: "Perhaps we can give impulses that Muslims organise in such a way that we have representative contact persons. Muslims want to be treated by the state equitable, like the Christian churches. However, then they have to create the respective organisational preconditions".[171] This statement is not only problematic in light of the constitutional principle of equality of religious groups before the law but also in the context of the "secular" state's position towards a religious community. What Schäuble explains to his Muslim counterparts is that it is impossible for them to enjoy equal religious freedom if they do not fulfil certain organisational requirements. However, as becomes evident in the light of the historical

contingencies of German state-church law and in comparison with the First Amendment in the US, these requirements are contingent on the German historical trajectory modelled after Christian churches.

## Conclusion

The analysis of core government documents on the German Islam Conference has demonstrated that both the aims of the Conference and the expectations towards Muslims are much more complex than the programmatic idea of "dialogue" suggests. Government rhetoric in the context of the GIC reveals a fundamental tension between a state that is passive and one that is interventionist in its religious politics. On the one hand, the state explicitly acknowledges that it is impossible to make judgements on theological questions and thereby to normatively distinguish between different Islamic currents. At the same time, the prescriptive accounts of how Islam should be and look like are numerous. Not only should Islam and Muslims be enlightened, they also should fully embrace "German values" and create authoritative structures that speak for, but also speak to all Muslims. As theological reflections of and interventions into the long struggle between throne and altar in Europe and elsewhere demonstrate, the organisational structures of a religion are never only a question of politics. They are also deeply embedded in the religious and theological self-understanding of a religious community. Therefore, the requirement to form representational structures is not only formal. Rather, it has potentially strong effects on internal power dynamics and contestations of theological positions.

At the same time, government rhetoric in the context of the GIC describes and thereby contributes to the construction of a status quo in which Islamic organizations but also Muslims are seen as supposedly insufficient. Muslims are being constructed as deficient citizens by the constant reiteration of the need to accept the liberal democratic order, to become ready to engage in partnership with the state, to accept German values, to renounce every form of violence, to foster integration etc. Thereby, the problematic is not framed as one of violence among youth, of insufficient possibilities to participate in society, but rather as a problem that is specifically Muslim. Despite avoiding to establish a direct causal link between Islam, failed integration and terrorism, the repeatedly reiterated correlation between these elements establishes Islam as a security threat the state has to act on.

Finally, the label "dialogue" which suggests a mutual process of learning and exchange seems to be quite inadequate given the unidirectional administrative and communicative processes in the context of the GIC. In the process of establishing the GIC Islamic organizations did not have any say. Moreover, the "consensus" that should purportedly be formed had actually already been established without any input from the Islamic communities, consisting of a fuzzy understanding of "enlightenment", "German values" and German church-state law.

Winnifred Sullivan has noted that "the collapse of hierarchy presents a problem for modern religion, too, as is perhaps clearest in the inability of governments to find centers of authority to deal with".[172] The GIC has to be interpreted in the context of the government's attempts to get hold of Muslims without being able to deal with a unified organisation that the legal system and the political culture is used to since the Reformation. One motivational factor of the GIC is to overcome the problem of the absence of "centres of authority". Granting some Islamic organizations the position to represent Islam by inviting them to a dialogue with high-ranking state officials means that they have the chance to considerably increase their legitimacy in the public sphere. Moreover, the state promises further empowerment in form of various kinds of resources to Islamic organizations that conform with the state's demands. In light of the intentions of the state it becomes clear why the GIC is not primarily about religious freedom. Along with tackling the issues of migration and security, the GIC is an initiative to "produce" the kind of Islam the state wants. Otherwise the state could just settle issues like religious education in state schools by setting up contracts between federal states and respective mosque communities or associations. However, because the state wants much more than the accommodation of religion in the framework of the constitutional church-state law, it needs to go beyond legal settlement. This is also one of the reasons why analysing the situation of Islam in Germany and the process of the GIC is only insufficiently understandable when focusing on the legal dimension alone.

At the same time, the legal dimension is crucial to understand the hybrid and contradictory nature of the GIC. While it aims at integrating Islam and Muslims, it also wants to enforce the rules of state-church law. It has been mentioned above how the diversity of organisational, confessional and political positions of different Islamic groups impede these efforts to create an "Islamic church". The establishment of the Coordinating Council of

Muslims (Koordinierungsrat der Muslime), an attempt of the Islamic organizations to achieve exactly that, has failed. The idea of a member-based religious community that is united in structure, doctrine and religious practice is modelled after Christian churches and contradicts not only conventional formations of Muslim organizations, but also does not match the reality of the diverse landscape of Muslim groups in Germany.

A main implication of this paper for the study of Muslims in Europe is, on a methodological level, that purely legal perspectives on the "accommodation" of Islam neglect the effects of state discourse on how its activities can be perceived by the Muslim community. The activities of European states have to be understood as a complex interplay between legislative, executive and judicative governance that is often combined with a soft-power approach using instruments such as dialogue forums that urge Muslims to commit themselves voluntarily to standards established by the state. Thus, this study suggests that it is important to establish more sophisticated analytical and conceptual frameworks to understand the interplay between the direct and indirect forms of governance and the power effects of knowledge productions such as state rhetoric on what kind of Islam is desired by the authorities. This will require a stronger interdisciplinary connection between legal, governance, sociological and anthropological perspectives. In particular, analyses of government discourse and intervention have to be complemented by investigations on how these are reflected in respective Muslim and non-Muslim communities on a local, national and global level.

# 'European Islam' Beyond the National Frame: Shifting to the Arena of the European Union

ADELA TALEB

## Abstract

*This paper addresses the relevance of moving beyond national case studies of various Muslim communities when researching 'European Islam', and tries to shed light on the often neglected arena of the European Union. The aim is to give a brief insight into some of the ways in which the EU and pan-European Muslim actors are involved in meaning making with regard to 'Islam' and 'Europe' and to present preliminary suggestions on how this is linked to the formation of European Muslim subjectivities. To illustrate how these processes take shape, an explorative investigation of discourses on Islamophobia in the EU will be laid out. The final part of this paper will end with some concluding remarks on the importance of following a postcolonial reading of 'Europe'.*

## 'Europe' Viewed Through The 'Muslim Question'

In recent years the field of research on 'European Islam' has been constantly growing; however, this debate tends to be dominated by methodological nationalism. While in-depth knowledge about the everyday lives of Muslim communities in different European countries is without a doubt valuable, it often ignores the versatile interconnections between Muslims across nation-states. Increased mobility in times of low-budget airlines, and facilitated long-distance communication via Skype and social media are realities of the 21st century, shaping the mental and physical horizons of Muslims and non-Muslims alike. Altered notions of space, generating new possibilities for gaining knowledge, acting socio-politically, and defining belonging, need to be taken into account when reflecting on 'European Islam'. Furthermore, processes of Europeanisation impact the legal, economic, political and symbolic realms, affecting notions of democracy and citizenship. Discussing 'European Islam' therefore requires not only a closer investigation of 'Islam' and 'Muslim-ness' but also of 'Europe' and 'European-ness'. While the paper does not equate 'Europe' with the European Union it still argues that the arena of the EU offers an insightful point of entry into the debate; it being an important material and symbolic field in which norm-setting processes with

regard to 'Europe' take place. Therefore, a closer look at the way in which high-level EU stakeholders and pan-European Muslim actors interact and frame the debate on 'European Islam' seems promising. Prominent structural elements of these framings of 'European Islam' include: minority rights, Islamophobia, integration, security, counter-terrorism, and secularity.

Arguably, the current climate makes an investigation of 'European Islam' all the more urgent. Growing populist movements across EU member states, heated debates about the so-called refugee crisis, and the way it is being addressed by the EU, as well as controversies after recent events in Paris, Brussels and Nice, bring the 'Muslim Question' to centre stage. The 'Muslim Question' functions in the following reflection as an analytical tool. Thus the aim is not to list, let alone to answer, a concrete set of questions with regard to Islam and Muslims, such as "Does Islam belong in Europe?" or "Is Islam inherently violent?", although such questions do form part of what is conceptualised as the 'Muslim Question'. Rather the 'Muslim Question' is being perceived as a prismatic field, a lens through which certain mechanisms of governance and configurations of power become apparent. In short: if we look at 'Europe' through the prism of the 'Muslim Question' what is it that we see?

## Remarks on Terminology

This paper conceptualises neither 'Islam' nor 'Europe' as set, clear-cut entities, but rather relates to thinkers in the field of political anthropology[173], governmentality studies[174] and ideas from the Asadian endeavour of an anthropology of Islam: all of which are analytical frames that strive towards denaturalising supposedly set categories and dismantling the workings of power.

## Islam as a Discursive Tradition

Asad's anthropological approach to Islam challenges previous research by emphasising the importance of religious practice, shifting the analysis away from the textual corpus of Quran and Hadith, to a focus on the Muslim practitioner. According to Asad:

> "[a]n Islamic discursive tradition is simply a tradition of Muslim discourse that addresses itself to conceptions of the Islamic past and future, with reference to a particular Islamic practice in the present. Clearly, not everything Muslims say and do belongs to an Islamic discursive

tradition. Nor is an Islamic tradition in this sense necessarily imitative of what was done in the past. For even where traditional practices appear to the anthropologist to be imitative of what had gone before, it will be the practitioners' conception of what is apt performance, and of how the past is related to the present practices, that will be crucial for tradition, not the apparent repetition of an old form".175

Asad's conception of Islam refers to the moments of inclusion and exclusion, reminding us that "not everything Muslims say and do belongs to an Islamic discursive tradition". Relevant therefore are those instances in which an act of speech or a practice is framed by the practitioner as 'Islamic', and how this Islamic practice is being contextualised with regard to the past and the future. Consequently, shifting the focus to the practitioner and his or her imaginaries of past and future results in a deeply contextualised approach to studying Islam, stressing the situated-ness of meaning making. With regard to 'European Islam' this entails studying 'Europe' and 'European-ness' just as much as 'Islam' and 'Muslim-ness'.

## From Europe to Europeanisation

Currently the notion of 'Europe' might be among the most contested terms of our times, and with it the idea of a European Union. 'Europe' can be understood in geographic, ideational, political and economic terms. Others imagine it as a community tied together by shared histories, or entangled cultures. One prominent narrative in this context seems to be the idea of Europe as the cradle of human rights, democracy and free speech. Europe of Judeo-Christian heritage also frequently features in these imaginaries. This paper does not aim to provide a definition of Europe, but rather seeks to deconstruct these very discourses on Europe, highlighting processes of making Europe and strategies of setting norms. Research on Europeanisation draws our attention to the dynamic and heterogeneous process of constantly producing Europe and reminds us that this is intrinsically a moment of power — power understood in the Foucauldian sense as productive and disciplining at the same time. One key actor, but not the sole one, in processes of Europeanisation are EU bodies. Analytically it makes an important difference when we approach the category of 'European' in 'European Islam' from a position informed by research conducted in the field of Europeanisation. In doing so a shift to the supranational level, and a closer look at the role — in terms of regulation and production — of EU actors in making 'European Islam' is what seems to follow as the next analytical step. Furthermore, a black box approach to EU institutions and other organisations in the EU arena,

treating them as set entities, is replaced by an analysis of everyday practices inside these institutions. Therefore, investigating 'European Islam' is also linked to questions of the Europeanisation of Islam and the role actors in the EU arena play in this process. The next two sections will follow this train of thought and look at the development of an ever-stronger involvement of the EU in matters of religion and more specifically Islam. As a case in point the final section will flesh out one of these moments of the formation of 'European Islam' by investigating the ways a transnational Muslim Youth organisation and EU bodies position themselves in discourses on Islamophobia.

### The EU's Engagement With Islam

**"If in the next ten years we haven't managed to give a Soul to Europe, to give it spirituality and meaning the game will be up."** (EC President Delors, Speech to the churches. Brussels 1992.)[176]

In 1994, two years after Jacques Delors made this statement, the European Commission (EC) initiated the *Soul for Europe* (SfE) programme, which aimed to provide:

> "[...] a forum for the European Commission, the European Parliament, and various representatives of religious and philosophical convictions to reflect together upon *the spiritual, moral and cultural roots, as well as the future potential of Europe.*"[177]

In December of the same year Delors invited Jewish, Christian and Muslim representatives to an inter-faith meeting.[178] These two initiatives (the SfE project and the regularly held interfaith meetings) as well as the creation of the *Forward Studies Unit* (FSU; an in-house think-tank dedicated to research on future areas of interest with regard to political, social, economic and religious matters) mark the beginning of an increasingly formalised exchange between the EC and religious representatives. The EC's commitment to keeping in-touch with civil society vis-à-vis religious organisations has been interpreted by some[179] as an attempt by the EC to compensate for its "soulless-ness" – a result of its often being perceived as a purely technocratic body and the EU's democratic weak link.

In fact, the committed engagement of EU actors in religious matters (e.g. by financially supporting projects run by religious NGOs) seems surprising, given the EU's competency restrictions in this policy area. According to Article

17 of attachment number 11 of the Treaty of Amsterdam, the policy area of religion lies in the hands of the member states. However, the creation of research-oriented institutions such as the FSU, invested in filing reports and organising conferences addressing the topic of Islam and Europe, has been interpreted by some as a way "to bypass the institutional constraints of the EU, i.e. its neutrality over religious matters"[180]. Others[181] see a clash of two main EU principles – subsidiarity and pluralism – when it comes to the engagement of the EU on the subject of religion, since the protection of minority rights (e.g. the religious minority of Muslims in Europe) might collide with the granted national autonomy in the regulation of religious affairs. This dilemma illustrates the flexibility of, and heterogeneity within, EU norms and regulations. Arguably, personal interpretations of the EC Presidents, or the outlook of particular Members of European Parliament (MEP), have a considerable impact on the part the EU plays in the configuration of 'European Islam' — the argument here being that since the mid-1990s this part has been an increasingly important one.

In their endeavour to position themselves with regard to matters of Islam, various Muslim organisations have been recurring partners of institutions within the EU arena. One of these Muslim actors is the Forum of European Muslim Youth and Student Organisation (FEMYSO), a pan-European Muslim umbrella organisation based in Brussels. FEMYSO marks its 20th anniversary in 2016, meaning that its formation coincided with the very beginning of a more formalised EU engagement in religious matters in the mid-1990s. This youth organisation, listing 35 member organisations from across Europe, has been a vocal player in the field of 'European Islam' and frames its activities around themes such as *fighting Islamophobia*, *citizenship building*, *civic engagement* and *human rights education*. FEMYSO has built various connections to different players within the EU arena in the course of the past twenty years and its foci of activity have more recently shifted to questions of Islamophobia. The following section will give brief insight into one of the fora in which FEMYSO interacts with MEPs with regard to Islamophobia.

### Exploring Discourses on Islamophobia — Preliminary Notes from the Field

As the introductory quote by former EC president Delors in the previous section illustrates, the question of giving Europe a "soul" and "meaning" that

goes beyond economic pragmatism, or political power play, is one of the ways in which the EU frames its interaction with religious actors. Frequently this discourse runs along narratives of European 'culture', 'values' and 'identity'. As has been pointed out by numerous scholars following the footsteps of Edward Said and Stuart Hall, projects of collective identity formation are structured around processes of Othering. One recurring Other in Western discourse — particularly given current far-right and populist movements and their ever louder proclamations — is 'the Muslim' or 'Islam'. With regard to the EU's engagement in the field of Islam, there has been since the mid-1990s a noticeable and distinct effort to "develop an alternative paradigm to the 'Clash of Civilizations'" narrative.[182] This engagement, one might argue, is in line with the self-image EU officials seek to propel of the EU being a project promoting peace, human rights, and "unity in diversity" — to quote the official EU slogan. Thus, the question of Othering with regard to EU discourses is somewhat more complex. It seems that the EU's engagement with Islam, orchestrating a discourse of inclusion and supporting a growing number of initiatives addressing Islamophobia, encourages certain kinds of narratives on 'Europe' and 'Islam' and excludes others. Tracing those narratives and linking them to wider processes of Europeanisation and governmentality in the EU context is part of an ongoing PhD project out of which some aspects are presented here.

Discourses on Islamophobia, being one of the frames in which 'the Muslim Question' in Europe is addressed, present an insightful point of entry for tracing processes of making 'Europe' and rationalities of Othering. While already in use before the 1990s, it was the 1997 publication of the Runnymede report "*Islamophobia: a challenge for all of us*"[183] that propelled the term onto the international stage of academic and public debate. This paper acknowledges the wide corpus of literature that has been produced with regard to Islamophobia, comprising quantitative as well as qualitative studies aimed at showcasing acts and institutional structures that are discriminatory towards Muslims. While such investigations are important in their own right, this paper is more interested in the discursive climate in which the term Islamophobia is embedded, and the kinds of norms and knowledge production regarding 'Muslim-ness' and 'European-ness' it enables. In short, the focus of the investigation briefly sketched here is: The way in which the term 'Islamophobia' is being used in the arena of the EU and the formation of specific subjectivities made possible by this usage. In this endeavour, the paper follows Vakil who aptly points out with regard to Islamophobia, that

"…what is significant is not *what* it names, […] but rather *that* it names; and in naming, the namer it bespeaks rather than the named. Quite the opposite of victimhood, then, Islamophobia is about contestation and the power to set the political vocabulary and legal ground of recognition and redress. It is about the subjectification of Muslim political subject(ivitie)s."[184]

With this in mind, the following section will shed light on some of the actors involved in discourses on Islamophobia within the EU arena, thus looking at the "namers" and the context of this practice of naming, while keeping in mind the underlying question: What kind of subjectivities are being forged by these discourses on Islamophobia?

One locus within the EU context in which EU staff and members of civil society refer to Islamophobia is the ARDI. The Anti-Racism and Diversity Intergroup (ARDI) is a cross-party space in which MEPs work together "to promote racial equality, counter racism, and educate about non-discrimination in the work of the European Parliament".[185] Like all Intergroups of the European Parliament (EP) ARDI represents a space in which EU officials interact with members of civil society. Intergroups, though not formal bodies of the EP, "are key components in the European Parliament's modus operandi"[186]. ARDI forms one of the twenty-eight official Intergroups confirmed by the EP for the legislative term of 2014 to 2019.

Islamophobia constitutes one of the seven themes addressed in the ARDI working groups, and is chaired by MEP Sajjad Karim from the UK conservative party. ARDI structures its work in various formats — next to briefings, resolutions, reports, declarations and parliamentary hearings, it communicates via letters, press releases and articles. In 2015 Mr. Karim called "on the European Commission to prioritise actions to combat Islamophobia", arguing that a "decisive response led by the EU would send a strong signal that Europe is committed to fighting Islamophobia and affirming it as an open and tolerant continent that welcomes religious, ethnic and cultural diversity."[187] Shortly after this address by Mr. Karim, the EC dedicated the Annual Colloquium on Fundamental Rights to a two-day discussion on "Tolerance and respect: preventing and combating antisemitic and anti-muslim hatred in Europe". Amongst the invited participants of this colloquium was FEMYSO as one of the representatives of civil society active in the field of fighting Islamophobia. Two years prior to the 2015 EC Fundamental Rights Colloquium, FEMYSO launched the Islamophobia Monitoring and Action Network (IMAN). Together with the Collective Against Islamophobia in France (Collective Contre l'Islamophobie en France;

CCIF), FEMYSO gathered data on discrimination against Muslims with a specially designed online tool in eight countries: France, Belgium, Germany, Sweden, the Netherlands, Italy, Hungary and the United Kingdom. With financial support from the EU Fundamental Rights and Citizenship Programme of the Directorate General for Justice and Consumers of the EC, some of the insights gained in the context of the IMAN project were published by FEMYSO in a report entitled "Islamophobia in Europe. Description of a Scourge" in 2014.[188]

The activities of the above mentioned actors are all interconnected, forming intertwined threads of the discursive net addressing Islamophobia in the arena of the EU. Noteworthy in this context are at least two points. First, while the EC seems reluctant to use the term Islamophobia, referring instead to anti-Muslim hatred or anti-Muslim incidents, as the title of the Fundamental Rights Colloquium in 2015 illustrates, members of the ARDI appear to switch between the terms anti-Muslim hatred, Islamophobia and anti-Muslim racism. Whether the ARDI's decision to name one of its working units the Islamophobia Working Group was a conscious choice is not clear at this moment of the here-presented ongoing research project. FEMYSO on the other hand seems to be using the term Islamophobia quite deliberately and, with launching the IMAN project, is invested in generating data on Islamophobia across Europe. Furthermore FEMYSO seeks to build support structures for victims of Islamophobia by conducting trainings and publishing handbooks aimed at helping to identify Islamophobic acts and providing information on legal support to counter Islamophobia.[189] As has been pointed out by Vakil, Islamophobia was a term in use amongst the Muslim community before it entered the sphere of political jargon. A more in-depth study of the genealogy of the term 'Islamophobia' in the context of the EU would therefore seem relevant. At this point it remains to be noted that the way different actors make use of the term Islamophobia and the various stages of political debate at the EU level to which the term has gained access are both indicative of the formation of European Muslim subjectivities; 'European' in the sense that in the discursive field of Islamophobia comparisons between different European settings are being drawn, transcending national frames of reference on various accounts. For example, by generating Europe-wide data on Islamophobia, by putting the topic on the agenda of high-level meetings within the arena of the EU, or by referring to different national legal settings with regard to minority rights and anti-discrimination legislation, these actions thus aim to provide transferable

knowledge in order to address Islamophobia more effectively.

The second aspect worth noting with regard to discourses on Islamophobia in the EU is the semantic and symbolic field of 'European values' frequently alluded to when addressing Islamophobia. Here Europe is being portrayed as a project embracing diversity, peace and tolerance. Thus expressions of Islamophobia are being labelled as 'non-European', at odds with the spirit of the European project. It might not be surprising, therefore, that the question of Islamophobia is thus often discussed in the same context as Antisemitism, with the Holocaust being one of the most prominent elements of the founding narratives of the EU. After the horrors and violence of the Second World War, the formation of the EU is often seen as the redemption project of European nation-states. Of course a postcolonial reading of this narrative, such as Peo Hansen has presented,[190] would bring different narratives to the fore, since quite clearly projects of exploitation, war and violence continued well into the 20th century, at a point when the founding treaties of building a transnational European alliance have long been signed. The Treaty of Rome, marking the formal beginning of the forerunner project of the EU, the European Economic Community (EEC), was signed in 1957, by Belgium, France, Italy, Luxembourg, the Netherlands and West Germany. However, while Belgium, with a most brutal colonial regime in the Congo, or France, with its more than 130 years of occupation in Algeria, signalled a willingness to lay down arms and enter a process of peaceful cooperation within Europe in 1957, both countries continued their colonial rule in Africa.

While one might observe a certain tendency in the arena of the EU to discuss Islamophobia together with questions of Antisemitism, it is frequently made clear by EU officials that the two are not interchangeable:

> "Although anti-Semitism and anti-Muslim attitudes are separate phenomena with different backgrounds, different causes and symptoms and different manifestations of violence, they both represent hatred and hostility towards a particular community."[191]

In short 'Islamophobia', 'Antisemitism' and 'European values' show a discursive overlap and are strongly related to one another, shaping one aspect of a European subjectivity being formed in the EU arena. The exact connections between these discursive spaces, as well as the impact of this overlap for the process of forming European subjectivities will be further studied.

## Concluding Remarks

'European Islam' presents a complex configuration composed of two highly contested terms. The current political climate illustrates all too well how debated are notions of 'Europe', 'European-ness', 'Islam' and 'Muslim-ness'. The outcome of the referendum on the EU membership of the United Kingdom in June 2016 and the subsequent debates proved not only that the political formation of the EU is dynamic and ever-changing, but it also unleashed an emotionally charged discussion on 'European-ness' and 'British-ness', generating international headlines that presented the results of the vote as "the UK turning its back on Europe"[192]. Discussions in the aftermath of the UK referendum not only showed how swiftly the political formation of the EU is being used as a shorthand for 'Europe', but also stimulated proclamations on 'European values' being about freedom, inclusion and tolerance. Entangled in these discussions are discursive strands on 'Islam' and 'Muslim-ness' particularly in the context of the so-called refugee crises, but even more so with regard to the attacks in Paris, Brussels and Nice. As a result, Muslims and non-Muslims throughout Europe engaged in arguments on whether or not those involved in these attacks are 'true' Muslims and what kind of acts are representative of Islam.

All of the above mentioned features in what this paper conceptualises as the 'Muslim Question'. As one element of this configuration, discourses on Islamophobia, and how they unfold in the arena of the EU, have been briefly studied in this paper. By looking at the engagement of the Muslim youth organisation FEMYSO and various EU actors, the paper points towards a research setting which forms part of an ongoing PhD project. In the end we are reminded that a critical investigation of 'Europe' and the place the 'Muslim Question' occupies in this imaginary needs to be aware of the fact that processes of 'making Europe' involve constructing Others and forging particular subjectivities. But more important still, by looking at 'Europe' through 'the Muslim Question' we are urged to follow a postcolonial reading of events as they unfold. At the heart of such a postcolonial reading lies the analytical imperative of following entangled histories. The formation of the EU, as has been convincingly argued by Peo Hansen, did not coincide by accident with the moment when European nations-states lost many of their former colonies. It remains an important endeavour to read discussions on 'European Islam', 'European- ness' and 'Muslim- ness' sideways, paying close attention to which kinds of narratives are being buried and which ones form

part of the master narrative, always committed to zooming out and tracing the broader picture. Whichever form the configuration of 'European Islam' might take, it is related in some way or another to colonial legacies. What is being portrayed as 'European-ness' or 'British-ness' cannot be detached from imperial formations, as Stuart Hall, the Jamaican-born intellectual and founder of British Cultural Studies, reminds us:

> "The notion that identity in that sense could be told as two histories, one over here, one over there, never having spoken to one another, never having anything to do with one another […] is simply not tenable any longer in an increasingly globalized world. […] People like me who came to England in the 1950s have been there for centuries; symbolically, we have been there for centuries. I was coming home. I am the sugar at the bottom of the English cup of tea. I am the sweet tooth, the sugar plantations that rotted generations of English children's teeth. There are thousands of others beside me that are […] the cup of tea itself. Because they don't grow it in Lancashire […]. Not a single tea plantation exists within the United Kingdom. This is the symbolization of English identity — I mean, what does anybody in the world know about an English person except that they can't get through the day without a cup of tea? Where does it come from? Ceylon - Sri Lanka, India. That is the outside history that is inside the history of the English. There is no English history without that other history. The notion that identity has to do with people that look the same, feel the same, call themselves the same is nonsense. As a process, as a narrative, as a discourse, it is always told from the position of the Other."[193]

Following these thoughts of Hall one might ask: What is the outside history that is inside the history of Europe? From which position is this history being told? And who is telling it? How are these moments of telling Europe's history performed, and what kind of European subjectivities emerge in the process? Looking at the EU as one prominent arena in which European-ness is being staged, seems like a promising starting point for tracing these imaginaries of European past, present and future and the way they materialise into EU policy making. Approaching this arena through the 'Muslim Question' and the emerging configuration of 'European Islam' is an analytical choice taken by the research project sketched here. As unlikely as it might seem to some, studying the formation of 'European Islam' might reveal more about 'Europe' than about 'Islam'.

# Political Participation and Non-Participation

# Living in a World Where the 'Islamic State' Has Been Propelled: The Perspective of British Muslims in their Own Words

MEMOONAH ZAINAB

## Abstract

*Communities across the United Kingdom have been affected by the occurrence of young people becoming radicalized and joining the 'Islamic State'. As a result it is difficult to enter the public domain without being exposed to debates surrounding Muslims, extremism and the Islamic State. The purpose of this paper is to go beyond simplistic categorisations in the public sphere such as 'liberal' and 'radical' young Muslims and to understand the perspectives and personal experiences of British Muslims in a world where the Islamic State has been propelled. I use a qualitative methodology of semi-structured interviews to understand how much of a shift the emergence of the 'Islamic State' has created in the British Muslim experience.*

## Introduction

I have decided to carry out research on how the emergence of the 'Islamic State' (hereafter IS) is affecting the experience of British Muslims. I feel this is a topic worth investigating for many reasons: firstly, because the gravity of the IS's appeal to British Muslims, which can hardly be exaggerated; joining a violent extremist group such as IS affects the lives of millions of citizens who pay the price for the actions of terrorists with the loss of human life, livelihood, statehood and dignity. Secondly, the issue of the Islamic State and terrorism continues to guide much international foreign policy as well as public debate and mainstream media, this in turn has caused a global discussion about Muslims which is often dominated by politics rather than the personal effects and experiences of Muslims themselves. Thirdly, the influence of the Islamic state has affected the relationships between national and local communities, in a variety of countries including Britain. The individual stories of young British Muslims leaving the UK to join the Islamic State include young British men who have died fighting for IS, young girls joining to supposedly become 'jihadi brides' and entire families uprooting themselves from their UK homes to support the newly established 'Caliphate.'

The effect of such incidents is leading to more fractured and suspicious communities in multicultural Britain today – this inhibits the ability to create peaceful and prosperous societies and communities.

Initially, my literature review and research questions were heavily focused on 'radicalisation,' however my research perspective changed during my initial fieldwork. As my research project evolved and I had conversations and conducted interviews with my participants the main topic of radicalization gradually developed to include an investigation into the other concepts related to radicalisation. Through my initial fieldwork I discovered that my initial question, 'What is the British Muslim response to the Islamic State?' was a question that mimicked much of the public debate and mainstream media and that my respondents had a lot more to say than simply discuss radicalization and condemn the IS. Respondents in my initial focus groups were discussing the matters on a macro level – giving consideration to foreign policy, immigration and Islamic theology and also on the micro level by providing personal and meaningful accounts of their identity and experiences of both integration and inequality in modern day Britain.

It therefore seemed to me that I should shift the aim of this research towards trying to understand the debates, discussion and experiences of British Muslims themselves in a world where the IS has been propelled. However, I did not exclude questions about radicalization completely from the discussion; rather I used both sets of questions to gain a rich and full response with an emphasis on inviting participants to share personal experiences and insights. Some of the questions were: Is there a lack of authoritative leadership in the Muslim world? Is there a need for a caliphate? What are the specific factors that are making British Muslims leave and fight for IS? What is the difference between a radicalised and non-radicalised Muslim? Have you ever faced marginalisation or discrimination?

## Methodology

One of the goals of qualitative research is to 'give voice' to groups referred to as marginalized by social scientists. Muslims living in Britain are certainly one such group[194].' The participants selected were a mixture of young Muslims - male and female aged 15-30. The research was conducted in the city of Bristol. The reason I have chosen to restrict the respondents to just the Bristol area is because it is my home city giving me easy access to the community and young

people. Furthermore, Bristol has a number of Mosques and Islamic Centres, which represent different Islamic sects, which means I can engage with Muslims from a variety of backgrounds and opinions. I have already approached several Islamic organisations and informal meeting groups who have thus far been keen to participate. I refer to my participants using pseudonyms to maintain anonymity.

I felt using either a semi structured interview or focus group would be the best way to conduct my research for the following reasons. Firstly, because the Islamic State is a recent phenomenon, the issue has not been researched from the perspective of the subjects in the way proposed by this paper and so it is difficult to presuppose responses through simplistic and quantitative methods. Secondly, because this project invites a new perspective, participants should be given ample opportunity to explain themselves, and focus groups allowed for this. Thirdly, because the topic itself is very sensitive and complex, participants could discuss how they felt more easily in a focus group. For this reason I used focus groups and semi structured interviews to gather my data.

## Findings

I will briefly discuss findings from one of the focus group I carried out in Bristol, with a group of graduates and young professionals. There was a 100% condemnation of the abhorrent actions of IS by this particular focus group, and a variety of other conversations that helped situate their own personal opinions and experience. I have placed my findings into the below categories which represent some of the wider discourses happening amongst British Muslim with reference to how the emergence of IS has affected them. This is not an exhaustive list of the categories but rather some that represent the most significant discussions.

### A Global Caliphate

Pooley found the following motives as factors causing young women to mobilize and join IS: the failure of multiculturalism, discrimination, a sense of the Ummah being under attack and to find purpose in a new caliphate sisterhood[195]. While none of the participants I interviewed believed IS was a true Islamic Caliphate, they had varied opinions about an Islamic Caliphate in its true form. To the question 'Is a global Muslim Caliphate important to British Muslims?'

Haaris, an Architecture graduate said:

'Yes, because there is a physical and tangible aspect which the secular world can fulfil, but there is a spiritual void which the caliphate will fulfil. The role of the caliphate is to rule by the divine laws and this would fulfil the spiritual void, the Ottoman caliphate fulfilled this for so many centuries and prior to that the Arabs. At the moment spiritual teachers fulfil this but not doing it politically.'

Faisal a 23-year old, Early Childhood Studies graduate and youth worker quickly responded with the following:

'I personally feel that a caliphate will not fulfil that void, it is impossible to have a global caliphate and even to suggest a caliphate is needed is dangerous territory, it is associated with terrorism, the generic term 'Islamic State,' is now a negative term. A caliphate will not solve the spiritual problems. There is already too much division.'

Imaan, a young female professional college teacher provided another response

'I think the word caliphate has been hijacked. But having a caliphate is regressive, it would not let us keep us with the modern world, religion now has the stigma of being regressive. A caliphate would take us back. No one is stopping us from being spiritual; there are other leaders that can help you spiritually. One caliph in Saudi cannot make a difference to your spirituality.'

*Inequality and a Culture of Fear*

Studies have shown that British Muslims continue to face racial and cultural discrimination when entering the labour market[196], that they are portrayed with persistently negative stereotypes in the media[197] and that they face differential treatment under certain laws[198]. This makes their experience in a 'post-IS' world one where they face inequality on multiple fronts and many experience a culture of fear.

Hamza, a professional and parent commented as follows:

'Now there is a new policy that states that parents should report their own kids…kids who are potentially being radicalised. A young person was reported for favouring Islam. This, as a parent has made me afraid to even discuss Islam - I don't want to discuss Islam with my kids as I am worried she will be reported and put on a register.

…St Katherine's school decided not to teach Islam but elected to teach Christianity and Judaism. If this happened in a Muslim school then it would be publicised. They want to hide our history.

…We shouldn't forget our history. If we don't know our history we don't know where we are going. We discovered great things in science…Muslims need to know that we can achieve. My kids think the only thing we can achieve is going to Syria.'

…'At school we covered Saladin, but only from the western perspectives. We are not taught about Muslim discoveries at school.'

Imaan added: 'If I sympathise with Palestinians, does this mean I am a terrorist?'

*Identity*

In a post 7/7 and post IS world, Muslims are increasingly regarded with suspicion as to their allegiance to Great Britain[199]. In the focus groups I raised the question of British identity; leading politicians have talked about what it means to be British, with former Prime Minister Gordon Brown arguing that 'being British helps to unite and unify us[200]', whilst a former Justice Secretary has discussed the importance of instilling a common sense of identity[201]. This is something that participants discussed in different ways. Imaan responded to the issue of identity by saying: 'I am integrated into British society but I feel I constantly have to prove myself because I am a Muslim.' Hamza provided an example:

> 'Recently at work it was Remembrance Sunday. Everyone was wearing poppies. Someone said 'I didn't know there were so many Indians who fought the war,' I said 'yes 500,000 Muslims fought in the second world war'…then someone said 'but now you're fighting against us'. They think Muslims are the enemy, so I said Pakistan is fighting frontline terrorism, we have lost so many lives to fighting terrorism… I had to explain that and then they thought maybe we do have a common enemy. Then they thought maybe the terrorists are someone else.'

*Justice and Mercy*

When asked what the fundamental ideal or pillar that a true Islamic State should have, most participants responded with 'justice and mercy.' Asif, a Mathematics graduate currently working in property and financial services, provided the following as his concluding remarks:

> 'I attend an Islamic study circle here and our teacher told us just last week that a Persian leader who was a Zoroastrian famously said 'a believing state that doesn't have justice will perish but a non-believing state with justice will survive.'

My findings thus far have shown that the British Muslims I interviewed do feel there has been a negative shift in their experience in a 'post-IS' world. However, what is also interesting to note was that many of the participants are under 30 and so most have only ever known a post-9/11 and post 7/7 world and so in many ways the post-IS shift is not something new, rather the negativity, fear and stereotypes are an extension of what a generation of British Muslims have always known. While before participants felt attacked by a media spokesperson, or a politician, they now felt that attacks were closer to home – in the workplace or at school. They experienced this hostility

indifferent forms, sometimes subtle – such as insinuations from a colleague for instance – but at other times more direct  such as the implementation of a draconian policy or law. However, there was no sympathy for the violent attacks perpetrated by IS and British Muslims rather favoured concepts of mercy and justice, which they felt they had inherited from both their Islamic and British cultures.

# The Islamist Politics of Exile: Tunisia's al-Nahda in France and the UK (1989-2011)

ANNE WOLF

## Abstract

*From 1989, many followers of Tunisia's main Islamist movement, al-Nahda, sought refuge in the West, at a time when the regime of former President Zine el-Abidine Ben Ali cracked down harshly on this, his biggest opposition force. In exile, al-Nahda's political priorities and ideological underpinnings changed markedly. Instead of struggling with the regime, its followers came to focus upon a discourse of human rights and democratization and became increasingly compromising towards the authorities in Tunisia. I show that this transformation was not only a response to a changed geopolitical environment, but, even more importantly, a consequence of the plight many of its activists experienced in exile. This stands in contrast to the common perception that al-Nahda's evolution towards more pragmatic policies and compromise owes to a process of learning about democracy its activists underwent in the West. More ethnographic research specifically focusing upon the rank-and-file of Islamist movements is needed to better comprehend the complex transformations their organizations have undergone in recent decades — in particular while in exile — not least as these processes still inform their political choices and prerogatives nowadays.*

## Introduction

When trying to understand the politics of compromise employed by Tunisia's Islamist al-Nahda movement, which became a major centrist force following the 2011 ousting of former President Zine el-Abidine Ben Ali, commentators typically point to the leaders' time in exile, often in France and the UK, where they experienced multiparty politics and democracy. They assert that this exposure to western values triggered a process of learning and education within the movement, whose followers consequently revisited their ideology and became more open and pragmatic.[202] Some former exiles, typically those connected to al-Nahda's leadership, have reiterated such discourse. For example, Soumaya Ghannouchi, daughter of al-Nahda's long-time figurehead Rachid Ghannouchi, argued in an October 2014 article published by *The Guardian* that '[through] their years of exile in European capitals, [al-Nahda] leaders appear to have learned the art of compromise and consensus - the

complex business of politics, with its painstaking negotiations, necessary concessions and changing coalitions and alliances'[203].

Based on ethnographic field research in Tunisia, France, and the UK, I challenge this narrative, highlighting instead the key role the plight of al-Nahda exiles and their families played in the movement's complex transformations and increasingly pragmatic politics. So far, literature on Tunisia's Islamists during their time in exile – although frequently excellent – has mainly discussed the leadership's priorities there and the political strategies it developed abroad.[204] This leader-centric focus has guided the bulk of research on exiled Islamist movements more generally, including on the Egyptian, Libyan, and Syrian Muslim Brothers, whose members have at many times since the establishment of their organizations been severely persecuted by their governments and consequently sought refuge abroad, often in the West. [205]

In addition, some academics have looked at the impact of Muslim migration on the West and how it affected the evolution of Islamic practices there. Yet, frequently their research does not distinguish between migrants who voluntarily settled in the West and those who were forced to leave their countries.[206] This paper constitutes a modest attempt to understand more thoroughly the complex dynamics shaping the experiences and prerogatives of Islamists in exile. I seek to scrutinize how al-Nahda's experience of exile, specifically at the grassroots level, shaped the movement's internal workings and ideological outlook — alongside other dynamics such as the geopolitical environments in the West and the Arab world.

## Al-Nahda's Roots

Tunisia's al-Nahda movement has its origins in the Islamic Group, founded as a clandestine organization in the late 1960s, becoming the Islamic Tendency Movement (MTI) in 1979. After the regime discovered the secret movement in 1981, MTI leaders applied for a party licence, but their desire to engage in politics was met with harsh repression, leading many of its members to seek exile in Europe. Whilst most returned to Tunisia following the issuing of a General Amnesty in 1984, some stayed permanently in the West, mainly in France, and eventually became European citizens. A second much bigger wave of exiles reached Europe starting in 1989, after former President Ben Ali falsified the outcome of elections which were held that year and would have

positioned al-Nahda as a key political force. Subsequently, he cracked down on the entire Islamist movement, imprisoning thousands of its members whom he accused of conspiring to overthrow his regime. A group of al-Nahda's most fervent activists may have indeed sought to confront the regime at that time, possibly through a *coup d'état* which they had already once plotted in 1987, although the majority of its members were not aware of their mischief.[207] In the wake of the repression, many Islamists again sought exile, mostly in Europe. Whilst most settled in France, Germany, and Switzerland, the al-Nahda leadership, centred on Rachid Ghannouchi, moved to London after French authorities were unwilling to grant him exile.

Although al-Nahda leaders have continuously stressed their ideological and organizational independence, in the 1970s and 1980s they entertained close relations with the Egyptian Muslim Brotherhood. An expert with links to the Brothers there even maintained that during that period the al-Nahda leadership integrated the structures of the International *Ikhwan*, making the Tunisian movement institutionally somewhat dependent upon the Egyptian mother organization[208] — accounts Tunisian Islamists have denied. Irrespective of their historic relations, al-Nahda activists generally agree that, during their time in exile, senior members took increasing distance from their Brothers and Sisters in other parts of the world, in part so as not to conflate their own domestic challenges with those of other Islamist organizations, some of which were implicated in violence and were at times even more severely suppressed than the Tunisian movement. After the 2011 overthrow of Ben Ali and al-Nahda's subsequent leading role in Tunisian politics, its activists initially again reinforced their ties to other Islamist organizations, many of which had also gained prominent political roles following popular uprisings, which began in Tunisia, swept to other countries in the region and ousted more longtime authoritarian leaders there. However, following the 2013 military coup against Mohamed Morsi, Egypt's elected Muslim Brotherhood President, al-Nahda leaders once again took distance from other Islamist movements, presumably in an attempt to protect themselves from the risk of a similar backlash at home.

### The Exile Organization

In exile in the late 1980s, al-Nahda senior members sought to re-establish their organizational structure, a process that proved difficult as their activists were dispersed over so many different countries. Although the bulk of exiled

members were in Europe, some had settled as far away as Canada or Australia. Scholar François Burgat observes that, by 1988, exiles were spread over 70 countries.[209] Naturally this made communicating between them and launching any sort of joint organizational activity quite challenging. An additional hurdle was that many al-Nahda followers had travel restrictions and were actively sought by Interpol, including at the leadership level, which made it impossible for them to meet with members who had settled in countries other than theirs. To maintain a minimum of activities, in 1989 al-Nahda's exiled officials created an executive bureau, of which Rachid Ghannouchi became leader. It is important to note that many al-Nahda activists claim that, at this point, the movement still had a secret underground structure in Tunisia, led by Sadok Chourou, a leader of al-Nahda's more uncompromising dogmatic wing. This means that al-Nahda effectively introduced a double structure — one in Tunisia and one centred on London. As one activist who was exiled in Paris explained: 'There were a lot of invitations for Ghannouchi, he was often asked to participate in events […]. So we decided to create another leadership [structure] to meet these international demands. The period was very rich, we had a lot of official meetings'.[210] Clearly, al-Nahda leaders sought to create a minimum of structures in the West to bolster Ghannouchi's mounting popularity there but, at the same time, they wished to continue the movement's secret activism in Tunisia. Naturally its double structures have reinforced allegations amongst critics that al-Nahda officials are duplicitous.

Given the many travel restrictions imposed upon its exiled activists and their dispersal over so many parts of the world, al-Nahda's first party congress abroad — held in Germany — took place only in 1992, a few years after the establishment of its executive bureau at a time when Ben Ali had completely eradicated its clandestine organizational structures in Tunisia. During the congress, al-Nahda officials formally re-established all of its institutions abroad, including its Shura council, a consultative body deciding the movement's most important positions and future strategies. It confirmed Ghannouchi's position as the leader of the movement, whereby Ghannouchi himself did not participate in the congress as he was initially not allowed to leave the UK. Within this organizational structure, al-Nahda's day-to-day activities were to be handled autonomously by movement representatives within each exile country. In most countries, al-Nahda exiles created associations to represent them, whereby the specific frameworks of their organizational activities naturally depended upon the domestic legal context.

Generally speaking, many al-Nahda followers claimed that their leadership in London enjoyed a high degree of liberty in their activism, especially compared to members who settled in France. There, the politics of *laïcité*, combined with close relations between French and Tunisian authorities, somewhat delimited their latitude for action.

Besides re-establishing its structures, participants of the 1992 congress also set up a commission to re-evaluate the strategic priorities and ideological underpinnings of the movement. In subsequent months, the commission would refine al-Nahda's priorities towards a public discourse about human rights and democratization. Consonant with this prerogative, during the movement's second congress, which took place in Switzerland in 1995, al-Nahda followers officially renounced the use of all kinds of violence, even if exercised for self-defence, a step that would even lead to the exclusion from its organization of one of its hardliners, Salah Karker — who was exiled in France and while there allegedly entertained ties to Islamists who advocated violence in countries such as Algeria and Afghanistan.

Clearly, al-Nahda's ideological underpinnings and political priorities evolved markedly in exile. Most importantly perhaps, its leaders shifted from a strategy of confrontation and resistance vis-à-vis the Ben Ali regime towards a policy that increasingly came to emphasize negotiation and compromise. From the mid 1990s indeed, al-Nahda chiefs in London even went so far as to parley with Ben Ali's representatives in the hope of finding a settlement that would allow its members to eventually return home. During that period, official party statements came to frame the al-Nahda movement as part of Tunisia's 'constructive opposition', stressing that its leaders were engaged in 'political dialogue with all parties concerned'.[211] The Islamists thereby implicitly denounced Tunisia's more uncompromising leftist activists, many of whom were also in exile, and who Ben Ali charged with 'radical opposition' to his rule. From London, Rachid Ghannouchi eventually even came to applaud the 'Moroccan model', calling for a similar move towards Islamist political participation without democracy in Tunisia.[212] How can al-Nahda's shift during its time in exile towards increasingly pragmatic politics and compromise with Ben Ali be explained? And does its transformation reflect a change in the movement's ideological underpinnings, its strategy, or both?

### A Changing Political Environment

One obvious factor that affected al-Nahda in exile is that its activists there

were in a position of weakness unlike at any time in their earlier history. They had lost their fight against Ben Ali, who consequently launched an unprecedented crackdown on the movement, and their safety depended upon their host countries. In the early 1990s, many of its persecuted activists in Tunisia were still seeking exile. Well aware that many western countries remained sceptical of the ideological underpinnings of Islamist movements, al-Nahda activists framed their struggle against the regime as one driven solely by a devotion to human rights and popular freedoms in an attempt to ensure that more of them could seek refuge. This dynamic also explains, at least in part, al-Nahda's unconditional rejection of violence during its 1995 congress, as well as the expulsion of hardliners such as Karker from the movement. One senior activist elaborated on the reasons behind al-Nahda's decision to exclude him from the movement: 'our members were still seeking asylum, the situation with Karker complicated this, as it gave a controversial point of view of the movement'.[213]

A changing regional environment further affected al-Nahda's complex transformations in the 1990s and 2000s. First of all, many of its members who were in the 1980s actively engaged in the movement's struggle against Ben Ali came to realize they had underestimated the stability of his regime and misjudged the extent to which people supported al-Nahda's bid for power. Indeed, even some of al-Nahda's own members criticized the leaders for struggling with the regime. In one of the movement's more rare moments of self-criticism, one activist reflected about this period: 'You cannot drag people into confrontation, because you have some kind of agenda'[214]. Historically, some of their militancy can be traced back to the Iranian Revolution of 1978-79, which inspired many of al-Nahda's most fervent followers who believed that a similar revolutionary change towards Islamic governance in Tunisia was possible. Even during their early years in exile, some still hoped that an Islamist tide would gradually free the region of their longtime and often secular-leaning dictators, particular after the victory of Algeria's Islamic Salvation Front in local elections in 1990, an event that the London leadership applauded. However, the subsequent eruption of the Algerian civil war and its gradual spillover to Europe complicated al-Nahda's support of Islamists there. After the 1995 bombings in France, which were carried out by Algeria's Armed Islamic Group and killed eight and injured over 100, many al-Nahda activists feared a backlash against their own movement. In part, their increasingly pragmatic policies and focus upon negotiations and compromise

reflects an attempt to clearly distinguish their organization and activism from those of other Islamists in the region.

### Grassroots Concerns

Changes in the regional and domestic environment, however, only partly explain al-Nahda's complex transformations in exile. Indeed, in interviews many al-Nahda followers mentioned that a key factor behind the movement's wide-ranging changes in the 1990s and 2000s was the hardship suffered by exiles and family members, along with the movement's fierce repression at home. They also stressed the difficulty of adapting to the European way of life, especially in face of the personal trauma many had experienced in Tunisia. The wife of an al-Nahda follower who was exiled in Paris for over two decades elaborated:

> Social integration was very difficult for us because […] we did not chose exile and did not want to be in [France]. This was the first handicap. Some women and children also experienced trauma related to how they had left Tunisia, some had fled the country through the mountains at the border with Algeria […]. The second reason was that, in terms of our professional life, we were deeply affected because our diplomas did not have the same value in France […]. It was particularly difficult for us veiled women. In Tunisia I had a university degree, but when I went to the job centre in Paris, the only employment they could offer me was cleaning and child care.[215]

Exiled women in France testified that they found it particularly challenging to integrate given the policies of *laïcité* and perceived discrimination against veiled women who are required by law to remove their headscarves in public schools and while engaging in public service.[216] By contrast, al-Nahda exiles in the UK praised the liberties they enjoyed in terms of dress and organization. Yet, following the 9/11 attacks on the World Trade Center, hostility towards Muslims grew throughout the West, a trend many exiles in London and France highlighted in interviews. The events in the US and the country's subsequent 'War on Terror' also fostered closer collaboration between Ben Ali and the West, lessening interest among European authorities in the human rights abuses pursued by his regime.

As well as a challenging environment in Europe, exiles were affected by the hardship experienced by family members who were still in Tunisia. In a deliberate move to further demoralize them, the Ben Ali regime withheld the passports of their relatives in Tunisia to prevent families from re-uniting. He also sanctioned many relatives by placing them under house arrest or by

making it impossible for them to find employment. Their plight added to the exiles' isolation and mounting despair. As a consequence, many — even the most fervent Islamist activists — gradually longed to return to Tunisia and to find a settlement with Ben Ali. One of them, who was exiled in London until the 2010/11 uprisings, argued:

> After some time, I thought we should try reconciliation, even if that meant we'd stop criticizing the regime and turn the page. Many people had parents who died and they could not even go to their funerals. They could not return to their loved ones in Tunisia whom they had not seen in years. Some of us had family members who were ill and they wanted to see them one last time.[217]

Like many other activists, the interviewee emphasized the great distress al-Nahda exiles and their families in Tunisia experienced under Ben Ali which, he affirmed, eventually became unbearable. Typically, such discourses of victimization are not accompanied by a self-critical evaluation of some of the movement's own past actions. They mainly reflect an attempt on the part of many al-Nahda followers to justify their mounting willingness to 'turn the page' and negotiate with officials of the regime, despite the latter's brutal crackdown on their activists. The victimization narrative suggests that the plight of al-Nahda followers was so pronounced that they had no choice but to come to an agreement with the regime.

### The Divergent Priorities of the Leadership and the Base

In face of the great distress experienced by many al-Nahda exiles and their families, many of the movement's followers believed that the leadership in London was not sufficiently conciliatory towards the Ben Ali regime. Many al-Nahda members, therefore, gradually distanced themselves from its activities, considering that a discreet existence in the West would best enable them to return to a normal life and perhaps even be allowed to eventually return to Tunisia. Naturally, this increased friction between the rank-and-file and the London chiefs, whose priority was to keep al-Nahda united to assure the survival of their movement and, by extension, their own political relevance. Some grassroots activists even claimed that by the 2000s, there was nothing really left of the movement except its leadership.[218]

Al-Nahda became even more divided when some exiles managed to return to Tunisia without the consent of their leaders. In fact, a small number left for Tunisia in the late 2000s after having been granted a passport at the

Tunisian embassies in France and the UK as part of a strategy called 'individual solutions', which was initiated by Ben Ali at the time. It came in response to the 'Right of Return' initiative, launched by exiles of al-Nahda and some leftist activists who together published a series of statements that defended their right to go back to Tunisia. Despite their ideological differences, in the 2000s, exiles of different ideological affiliations increasingly sought to work together in the hope that their collaborative efforts would pressure the Ben Ali regime into granting them more rights. The 'individual solutions' initiative, launched largely in response to their activism, allowed exiles of all political trends to apply for a passport at the Tunisian embassy upon which a decision on their request to return would be taken on a case-by-case basis. While those who wished to return to Tunisia were of course cheerful about it, the al-Nahda leadership in London was furious when hearing about the initiative. One close adviser to Rachid Ghannouchi exclaimed:

> 'I was against [the individual solution], we faced a political problem. People [in Tunisia] could not engage in any activities, those who returned could only enjoy the weather and their families. It was very personal and selfish behaviour [to go back]!'[219]

The interviewee's somewhat cynical claim that the return of al-Nahda exiles was driven by their desire to enjoy the Tunisian weather and their relatives back home indicates that the London leadership may not have taken the plight of the grassroots very seriously. Ghannouchi even denounced the return of some exiles as evidence that members of the Ben Ali regime had managed to infiltrate the movement, persuading some of its followers to return home to seed further divisions within al-Nahda.[220] Clearly, he does not want to see that al-Nahda activism may not have been everybody's priority and that some of its followers just wished to return to a normal life. In contrast to the personal motivations that led some to return, Ghannouchi and most of his associates in London hoped to strike a deal between the entire Islamist movement and the regime. "We were calling for a common solution, the solution of [al-Nahda] not the solution of some people to return to their country"[221], Ghannouchi explained. Whilst suggesting that his struggle was high-minded in that his fight concerned the rights of the whole movement and not just some individual activists, it is important to highlight that Ghannouchi certainly also had personal motivations for not supporting the 'individual solutions' initiative. Indeed, as the leader of the movement, he would most probably not have been allowed to return home on his own. From Ghannouchi's point of view, the only possible way for him to ever go back to

Tunisia would have been as part of a wider pact between al-Nahda and the regime. As a result, some al-Nahda activists from the 'Right for Return' initiative charged him with 'egoism'[222] and an increasing number of them kept returning as part of Ben Ali's 'individual solutions' programme. Naturally, this weakened the leadership's bargaining power during negotiations with the regime. Some exiles claim that by the late 2000s the leaders had abandoned almost all their demands towards Ben Ali and were just months from striking an agreement under terms dictated mostly by the regime when the 2010/11 uprisings occurred, which forced Tunisia's former president out of power.

## Towards an Ethnographic Approach to Understanding Islamist Exile Politics

Clearly, the stark rapprochement between al-Nahda and the Ben Ali regime was driven to a large degree by the experiences of exiles and their families, many of whom longed to return home after spending years in countries they had not chosen and often found difficult to integrate into. The extent of al-Nahda's increasingly conciliatory politics and compromise with the Tunisian authorities even came to unsettle many exiles with more leftist ideologies. In 2008 scholars Vincent Geisser and Éric Gobe affirmed that 'it [was] no longer so much the ultraconservatism or the "double language" of the Islamists which caused a polemic in [secular] opposition circles but more their desire of rapprochement with the authoritarian regime'.[223] One leftist opposition newspaper charged that this stance '[repelled] *sine die* the questions of democracy and necessary legislative and political reforms'[224].

This paper seeks to illustrate that the personal stories of al-Nahda followers and their families are crucial if we wish to better comprehend its politics of exile, and possibly that of other Islamist movements. So far, research on Islamists in exile has mainly focused upon the strategies of their leaders and how they responded to changes in the geopolitical environment. Yet the case of Tunisia's al-Nahda suggests that senior members were under immense pressure from exiled grassroots activists, whose priorities were first and foremost related to their personal lives and that of their families rather than the movement. The challenges they experienced whilst abroad have changed Tunisia's Islamist landscape for good.

As a matter of fact, al-Nahda followers' increasingly conciliatory exile politics also explains in part its current politics of compromise in Tunisia,

demonstrated, for example, by their willingness to join a coalition with the Nidaa Tounes party, which includes many members of the previous Ben Ali regime. Moreover, many former exiles and their family members have acquired key political posts, as have many previously imprisoned Islamists. Rather than a simple process of learning about democracy and multiparty politics, their experience in Europe often translated into a fierce determination not to repeat the experience of repression and exile. The same is true amongst al-Nahda activists who experienced the horrors of torture and jail under Ben Ali. Indeed, in contrast to the notion that the experience of exile made al-Nahda activists there particularly pragmatic and open-minded, some of the movement's most conciliatory figureheads were imprisoned under Ben Ali, often in solitary confinement. They include Tunisia's former prime ministers Hamadi Jebali and Ali Laarayedh. This is not to suggest, however, that the experience of repression made Tunisia's Islamists pragmatic. Indeed, many leading figures affirm that they first learned how to negotiate during the 1960s and 1970s on student campuses, which enjoyed some liberty and where leftists and Islamists frequently deliberated and sometimes clashed. Moreover, amongst al-Nahda's younger generation of activists, typically the sons and daughters of those imprisoned and exiled, the experience of repression sometimes made them more prone to join more hardline Islamist or Salafi groups.

For those who had lived the experience of exile and prison, compromise and reconciliation with figures of the Ben Ali regime became a priority, especially after the overthrow of the Muslim Brotherhood in Egypt in the summer of 2013. In its aftermath, al-Nahda officials markedly distanced themselves from their Brothers and Sisters in other parts of the Arab region, in particular in Egypt, a strategy certainly devised to protect their movement from a similar backlash at home. This dynamic also illustrates the extent to which strategic and ideological considerations of al-Nahda officials have sometimes become intertwined. Indeed, events in Egypt, alongside the persecution of Muslim Brotherhood-affiliated Islamists in countries such as Libya and Syria, certainly affected their decision to officially separate the al-Nahda movement from its political party, which was formalized during its May 2016 congress. Nowadays, its lawmakers have come to distance themselves from the Islamist label and even stress that al-Nahda has become just 'one party amongst others'. Whilst some have adopted this stance mainly for strategic reasons, others have come to embrace it out of ideological conviction.

The case of al-Nahda's exile movement highlights the need for ethnographic research to better understand the complex evolution Islamist groups have undergone in recent decades, specifically in exile, processes which still affect their contemporary working and internal dynamics. My findings also counter the widely accepted perception that the ideology of Islamists is mostly defined hierarchically by their leaders. More ethnographic research specifically focusing upon the rank-and-file of Islamist movements, as well as the complex internal set-up and decision-making structures of their organizations, is required to better understand their transformations.

# Socio-legal Perspectives

# "Unlawful Marriages": Problems with Securing Financial Rights inPolygynous Marriages in England and Wales

HADEER SOLIMAN

## Abstract

*Upon dissolution of an unregistered marriage, a marriage which is not registered civilly and thus not recognized, many women who seek relief in English courts are left with no property rights. This paper analyzes English court decisions dealing with both unregistered and polygynous marriages, noting that the financial rights of women in Muslim polygynous marriages may be curtailed as a result of the lack of recognition of the marriages in England and Wales. Thus, the paper argues that there is a need for a perspective shift within the English Muslim community toward raising women's awareness of the legal tools that may protect them, including stipulations to a nikaḥ contract and inclusion of mahr quantum in contract, and ultimately toward discouraging polygyny because of its potential to limit state-sanctioned financial rights in the event of marital dissolution. Cases involving monogamous but unregistered Islamic marriages, while distinguishable from those involving polygynous marriages, are instructive in that they suggest the English courts' attitudes toward mahr and other marital agreements. This paper argues that because nikaḥ marriage contracts are not recognized as civil marriages, the best form of protection of marital financial rights is inclusion of a mahr and any other stipulations in a contract at the time of marriage. Without recognizing the polygynous marriages themselves, courts will likely consider mahr agreements independently of Muslim marriage contracts in order to enforce the financial rights of women in polygynous marriages.*

## Introduction

"Polygyny,"[225] as employed in this paper, involves the marriage of a man to multiple women, including some marriages solemnized by Islamic religious ceremonies.[226] According to 2010 figures from a UK *shariah* council, women cite polygamy among the top ten reasons for divorce, which demonstrates that there is some incidence of polygyny occurring in England.[227] While polygyny is not the norm in English Muslim communities, its effects have an impact on English Muslim families.

In England and Wales, like in other countries around the world, since the state

retains an interest in marriage and divorce, marriage recognition requires registration and divorce must also involve the legal system.[228] Muslims who uphold Islamic law contractual requirements for validating a marriage often conduct both a religious "*nika*" marriage ceremony (in which the marriage is solemnized as per Islamic legal requirements) as well as a civil ceremony for purposes of recognition under English laws and as an insurance of claims to state-sanctioned marital rights which may arise in the instance of marriage dissolution.[229] Some Muslim men living in England enter into *nikaḥ* contracts with more than one wife, effectively marrying them under Islamic law, but civilly registering only one (or none) of those marriages in England.[230] Some spouses, in both polygynous and monogamous marriages, assume that an Islamic *nikaḥ* ceremony sufficiently solemnizes their marriages under the law, a belief that results in contentious disputes in the event of divorce.[231]

Polygamous marriages under the law of England and Wales are prohibited, and bigamy is criminalized.[232] While the Marriage Act 1949 recognizes religious marriages of only the Church of England, Jewish synagogues, and Quakers, Islamic (and many other religious) requirements for a valid marriage are actually similar to those required for a civil marriage, rendering superfluous the requirement of Muslims and many other minority groups to "marry twice"[233]. Because of the similarity in requirements and the prejudice caused by a lack of recognition, many academics and advocates have called for recognizing *nikaḥ* marriages as a logical next step in reform of the Marriage Act.[234] The lack of recognition of *nikaḥ* marriages may imply an indifference or resentment toward Muslims, potentially causing some Muslims to find civil registration of marriages unnecessary.[235] English law may find a way to recognize Islamic marriages without recognizing polygamous marriages by stipulating that those Islamic marriages that meet certain legislative requirements (such as a lack of impediments, including simultaneous marriages) are automatically recognized. Parties knowingly entering into polygynous, and thus unregistered, marriages must otherwise protect their rights through contract law so that they are not left vulnerable upon dissolution of that marriage.

Although a common issue found in the case law of unregistered marriages is the recognition of marriages that took place in other jurisdictions, this paper deals chiefly with polygynous marriages conducted within England and Wales under circumstances not recognized by the Marriage Act 1949.[236] Moreover, recognizing that children's financial relief against parents can be applied for

under Schedule 1 of the Children Act 1989 regardless of a registered marriage,[237] this paper deals only with a former wife's legal and financial rights, not those of any children resulting from unregistered polygynous marriages.

## Marriage Under Islamic Law

Generally, under majority opinions in Islamic jurisprudence, a marriage is a contract between consenting parties with the condition of a dower, or *mahr*, offered to the bride.[238] There is disagreement among scholars on how to determine consent of the parties and whether witnesses are required to validate the marriage.[239] In a particular context of revelation, the Quran states that a Muslim man may marry up to four women on the condition that he can deal with them equitably.[240] Based on this verse, the main Islamic schools of law unanimously hold that a Muslim man may marry up to four women simultaneously.[241] However, Islamic legal scholars hold that because of the impossibility of the condition of equitable treatment, polygyny is not actually religiously sanctioned.[242] Many of these scholars read the Quranic verse "You will never be able to treat your wives with equal fairness, however much you may desire to do so"[243] in conjunction with the verse "If you fear that you will not deal fairly with orphan girls, you may marry whichever [other] women seem good to you, two, three, or four. If you fear that you cannot be equitable [to them], then marry only one"[244] to find that it is impossible to marry polygynously while upholding Quranic requirements. Many schools of thought have also constructed restrictions on polygyny as issues of a man's conscience rather than legal restrictions, but Muslim-majority countries today that recognize polygyny have codified restrictions.[245]

Regardless of the difference of Islamic legal opinion, the lack of recognition of polygamy in England and Wales means that those who choose to marry polygynously may not register more than one marriage in the UK, resulting in a lack of access to the English legal system upon breakdown of the unregistered marriage.

## *Mahr* Under English Law

Under the Marriage Act 1949, an approved individual solemnizing the marriage is authorized to register only marriages solemnized in registered buildings or approved locations.[246] Part III of the Matrimonial and Family

Proceedings Act 1984 triggers financial relief upon a court order after the valid dissolution of a marriage between parties that had domicile, residence, or a matrimonial home in England or Wales.[247] *Nikaḥ* ceremonies, usually conducted in a home or at an unregistered mosque, do not fall within the Marriage Act and are thus not recognized for financial relief under English law, unless the parties register their marriage at a registered building (including some mosques).[248] Hence, when an unregistered marriage solemnized by an unrecognized *nikaḥ* ceremony alone is dissolved, there is no recognized divorce and thus no matrimonial property rights.

Many *nikaḥ* contracts contain a provision stating the amount of *mahr* to be paid to the bride. Although *mahr* can be paid fully at the time of marriage, many couples opt to defer part of the *mahr*, making an amount payable upon death or divorce.[249] English courts have enforced deferred *mahr* provisions on contract law theory, even when the *nikaḥ* contract for marriage itself was unrecognized, so long as the necessary requirements of a contract were present. For example, in the 1965 case of *Shahnaz v. Rizwan,* in which a woman in a "potentially polygamous" marriage entered into in India sought to enforce *mahr* payment after the couple was divorced in England, the court allowed the wife to pursue her claim on the basis that the *mahr* was not a matrimonial right but a proprietary right arising out of an enforceable contract.[250] The court found that the nature of the marriage was irrelevant, and the *mahr* contract could be enforced separately.[251] The court reasoned that it was in the woman's interest to find in her favor instead of leaving her in a position of receiving no assistance from the English courts.[252] Similarly, in *Qureshi v. Qureshi*, although the divorce was registered in another jurisdiction, the court found that a *mahr* provision in a *nikaḥ* contract was enforceable.[253] This is distinguishable from *Shahnaz v. Rizwan* because the *mahr* agreement here was not separate from the marriage but rather seen as a right that flowed from the marriage, since the marriage was recognized in England.[254] Although the court recognized the validity of the husband-initiated extrajudicial divorce from his new domicile of Pakistan, the court still found the *mahr* agreement to be enforceable.[255] The court reasoned that a finding that the divorce from Pakistan was invalid would be almost meaningless, and that a judgment for the *mahr* amount would be more easily enforceable.[256] Therefore, while a party to a *nikaḥ* contract for a polygynous marriage may not register the marriage itself, it may seek enforcement of a *mahr* provision under contract theory because courts have made efforts to give parties to *nikaḥ* contracts access to the English courts. Of course, these

cases occurred many years before the post-9/11 and -7/7 climate of security concerns closely linked to fear of Islamic extremism: a climate characterized by less motivation to extend to Muslims the exceptions made for other groups.[257] However, there are no cases to suggest that a court would deny this precedent by not enforcing a *mahr* agreement. In fact, the case of *Uddin v. Choudhury*, though not entirely focused on *mahr,* supports the argument that *mahr* agreements will continue to be enforced as contracts.

In *Uddin v. Choudhury*, the *nikaḥ* contract stated a *mahr* quantum unpaid at the time of the *nikaḥ*, and the husband's father claimed to have given the wife gifts and jewelery.[258] The *nikaḥ* dissolution occurred through a *shariah* council, not through the civil court system.[259] Although the husband's father argued that the wife should have returned the gifts and jewelery, the court found, after testimony from an Islamic law expert, that the gifts given at the time of marriage were mere gifts not made conditional on the marriage and that there was no obligation to return them.[260] The court further held that the *nikaḥ* contract was valid and awarded the wife the *mahr* amount therein. Setting aside the problematic nature of this ruling, which implies that one monolithic form of "*shariah* law" applies to all Muslims and that an expert can list rules the way one would recite black letter foreign law[261], this decision is notable in that the court enforced a *mahr* provision under contract law theory in a post-9/11 and -7/7 world. The *Uddin* decision is not necessarily a sign that courts are becoming more accepting of personal law but, in the court's implementation of English law, there is a willingness to see a *mahr* provision as merely a contract provision. The distinction between accepting Islamic law principles as applied to Muslim individuals and simply implementing English law is demonstrated in the case of *Ali v. Ali.*

In *Ali v. Ali,* an unreported case from 2000, a *nikaḥ* agreement promised £3,001 in *mahr.*[262] In addition to a *Shariah* Council divorce, Mr. Ali initiated divorce under English law, and Mrs. Ali cross-petitioned not to allow the civil divorce unless he paid the agreed-upon *mahr* of £3,001.[263] The judge awarded Mrs. Ali £3,000, leaving one pound unaccounted for.[264] Although the judge found in favor of Mrs. Ali in this case, his declining to award the full amount shows that he applied English law of equity by providing her with a fair amount rather than accepting Muslim personal law of *mahr.*[265] The award of £3,000 is an indication that the judiciary is aware of attempts to "smuggle" recognition of foreign or religious personal law specific to particular parties into English law, yet its similarity to the *mahr* of £3,001 is an indication that

there is a tendency to accept that personal law when it is done through a recognizable contract.[266]

Thus, although a *mahr* provision has not been enforced since *Uddin*, there is no indication that a court would completely ignore a *mahr* provision today or that it would consider a *mahr* agreement to be an unenforceable contract.

### The Ambiguity of Non-Marriages and Presumptions of Marriage

Beyond enforcing *mahr* payments, the *nikaḥ* contract does not trigger ancillary relief or any type of matrimonial rights under English law in the case of a divorce.[267] While void marriages are void from the outset and voidable marriages must be declared void, findings of both void and voidable marriages enable parties to apply for financial remedies under the Matrimonial Causes Act 1973.[268] On the other hand, ceremonies found to be non-marriages are dismissed with no option to apply for financial remedies.[269] The concept of non-marriages is a judicial concept that has come to play a significant role in family law cases.[270] Although the intention of the parties to marry is an important factor in determining whether a marriage is void, valid, or a non-marriage, ceremonies are reviewed on a case-by-case basis.[271] Finding that Islamic marriage ceremonies are non-marriages, a discriminatory conclusion because it does not apply to all religious ceremonies, leaves couples without access to the English courts.

In the 1999 case of *Chief Adjudication Officer v. Kirpal Kaur Bath*, the court found that the marriage, which occurred in an unregistered Sikh temple,[272] was not invalid or void, assuming the parties were unaware that the temple was unregistered for solemnization of a religious marriage.[273] The court relied on dicta to hold that a presumption of a valid marriage could be activated unless there was positive evidence that the statutory requirements for marriage were not complied with.[274] Justices Walker and Evans seem to have gone out of their way to find a presumption of marriage for the wife in this case, whose husband had paid taxes as a married man since his marriage ceremony but whose widow's pension was being denied after the husband's death. Although the judges found in the wife's favor in 1999, it is unlikely that a court would go out of its way to grant a presumption of marriage to Muslim spouses today, given the holdings of the majority of recent cases dealing with non-conforming Muslim marriages.

In *A-M v. A-M,* although the court found that the *nikaḥ* was not a valid marriage under English law, it allowed the wife, who knew she was entering a polygynous marriage, to rely on a presumption of marriage as a result of the parties' twenty-year cohabitation, their children, and their reputation as husband and wife.[275] By contrast, where the parties in *Hudson v. Leigh* had only a Christian ceremony in South Africa and never had their intended civil ceremony in England, the court afforded no presumption of a valid marriage because the parties did not intend that their South Africa wedding serve as a legally binding ceremony.[276] By concluding that the parties intended to put together a ceremony that "looked like a wedding," despite the wife's sincere belief that she was "married in the eyes of God," the court found that the marriage was neither void nor voidable but rather a non-marriage.[277] Unlike in *A-M v. A-M,* the *Hudson* couple's long-term relationship of seventeen years and their having a child together did not lead to a presumption of marriage.[278] Although there is inconsistency in the court's application of the concept of "non-marriage," like in *Hudson v. Leigh*, a presumption of valid marriage would likely not be available in a polygynous marriage that is solemnized by a *nikaḥ* contract in England because the parties entering into the contract would not reasonably intend or believe that a marriage not registered and not officiated by a member of the registrar were valid under English law. In fact, the reason for not registering the marriage is its polygynous nature. Although a presumption of marriage was given in *Bath*, a court deciding the case of a *nikaḥ* ceremony involving a polygynous marriage and a woman who *bona fide* believed her marriage to be valid would likely apply the rule from *Bath* to overcome the presumption of marriage because the polygynous nature of the marriage is sufficient positive evidence that the parties did not comply with the statutory requirements for marriage. Even a twenty-year polygynous marriage by *nikaḥ* contract would not raise a presumption like that in *A-M* because of the failure to satisfy the statutory requirements of a marriage. Thus, since the cases are inconsistent on presumption of marriage and the existence of a non-marriage, there will be no presumption of valid marriage in cases of polygynous marriages, despite the parties' belief that they were married or their longstanding cohabitation.

In the 1997 case of *Gereis v. Yagoub*, a religious marriage ceremony in a Coptic Orthodox church that was not licensed under the Marriage Act was found to be void rather than a non-marriage because it "bore the hallmarks of an ordinary Christian marriage."[279] While the marriage failed to satisfy the statutory requirements like many marriages in cases before, the court,

seemingly because it understood Christian marriages or perhaps in an allusion to the traditional English understanding of marriage "in Christendom,"[280] recognized the intention to marry here and declared the marriage void, giving the parties access to the legal system. However, in the 2012 case of *Dukali v. Lamrani*, where a divorce was issued in Morocco,[281] the court found that the marriage, which occurred at the Moroccan consulate in London[282], was a non-marriage that could not be treated as a marriage for purposes of financial relief.[283] Although the parties had cohabited for seven or eight years after their marriage ceremony, the court found that their cohabitation was not long enough to prompt a presumption of marriage like the one in *Bath*.[284] Despite the justice's "sympathy" for the wife[285] and the fact that the same acts done in Morocco rather than the consulate would have made the marriage valid[286], the court found that the wife could not avail herself of any legal financial remedies.[287]

It has been noted that courts' treatment of a Muslim marriage, particularly of monogamous nature, as a "non-marriage" rather than a void marriage is erroneous because the religiously validated marriage is viewed by adherents as valid and is similar in its requirements to the English legal requirements of a marriage.[288] In fact, a disproportionately high number of non-marriage cases arise from Islamic marriages.[289] If alternative ceremonies are brought within void marriages, non-marriages could be limited to fictional marriages, allowing greater rights to those who marry through religiously valid ceremonies like *nika*.[290] However, this would not require, and likely not lead to, recognition of polygynous marriages. Those entering polygynous marriages must secure their rights by other means.

## Consequences of Polygyny

Upon breakdown of a marriage, ex-spouses or civil partners are entitled to a split of assets accumulated during the marriage or civil partnership, even if those assets were earned by only one of the parties.[291] Without a registered marriage, the parties to a relationship have no similar rights.[292] While cases of *nika*-only marriages can rather easily gain recognition through the parties' registration of the marriage before marriage breakdown or even through a redrafting of the law to recognize religious ceremonies like *nikaḥ* as legal marriages, polygynous marriages lack an avenue to gain that same recognition under English law. Recognizing *nikaḥ* as a legal marriage is completely separate from recognizing *nikaḥ* that involves polygyny. In fact, since

registration involves a declaration that a person is not otherwise married, anyone who might wish to marry polygamously would still be in jeopardy as a potential bigamist.[293]

It may be that Muslims often defend polygyny as if defending their religion's right to exist because of the greater environment of Islamophobia that exists, and in fact seems to increase, in the UK today. Islam is often seen as a pernicious religion, and its public existence is sometimes seen as a threat to the country's Judeo-Christian heritage.[294] As a result of these motivations, Islam and Muslims are often treated with indiscriminate negative attitudes.[295] Thus, often with very little understanding of the term "*shariah*," there have been calls to ban *shariah* and any influence of Islamic law on public life.[296] Given this Islamophobic environment, it is understandable that some Muslims would hold on to the practices that set them apart, in search of a "win" for their community. There is a need to approach the issue of polygyny from a less judgmental perspective that reduces the divide between Muslim communities and the larger community. Instead, when calls for discouraging polygyny come from entities that do not spew hatred or automatic negativity about Islam and Muslims, there may be greater understanding of why polygyny is problematic in the England and Wales, where it cannot be recognized civilly.

Due to the resulting loss of access to financial rights upon dissolution of polygynous marriages, there should be a campaign to raise awareness about the legal enforceability of *mahr* agreements. Additionally, a campaign to discourage the practice of polygynous marriages entered in England and Wales would prevent women from losing financial rights upon divorce. In the case of the more common monogamous, yet unregistered marriage, campaigns to encourage British Muslims to register their marriages[297] have been limited in their efficacy because of communal and familial patriarchy and gender imbalance that often leave women out of the decision to register a marriage.[298] However, since marriage requires consent in any case, raising women's awareness about registration and their potential vulnerability if entering a polygynous marriage can protect women who are unaware that polygynous marriages do not exist legally within the civil system.

In the present research, it has been pointed out that some women may actively choose to be in polygynous marriages.[299] Although some women within the UK may hail from backgrounds that are accepting of polygyny and be willing

to enter knowingly into a polygynous marriage, it is nevertheless important that women understand that a *nikaḥ* ceremony alone, without further fulfillment of English law requirements, will not be recognized as a marriage. Thus, in the case of dissolution of the relationship, a wife in a polygynous marriage will not be entitled to ancillary relief. Because English law currently does not provide financial rights for cohabitants[300], there would be no avenue for a presumption of marriage based upon cohabitation. For this reason, cases of unregistered marriages and cohabitation have had to rely on statutes such as the Trust of Land and Appointment of Trustees Act 1996 to provide some financial rights to the financially disadvantaged party, with varying success.[301] A remedy for these women lies in the marriage contract stipulations recognized by classical Islamic law and enforceable in English courts, including *mahr* and other financial agreements.

### Options to Secure Financial Rights in Polygynous Marriages

Because women have often been victimized by their lack of financial rights upon dissolution of an unregistered polygynous marriage, there is a need for more vigorous educational campaigns that discourage polygyny where the legal system does not recognize it and, in parallel, advocate for awareness of contractual remedial possibilities. Islamic institutions' encouragement of polygyny, by performing the *nikaḥ* ceremonies while knowing that the relationship is polygynous, or staying silent on the issue of registration of marriages, only contributes to a lack of financial protection under English law.

A financially astute woman could enter into a polygynous marriage and still protect her financial interests by means of contract law without entering into a registered marriage. In addition to the traditional means of contract stipulations, she could enter into a contract, similar to a cohabitation agreement,[302] that outlines financial rights and avers that the parties disclosed financial assets and were counseled on their rights. While it seems that this proposal would solve the problem of the lack of financial rights, anecdotal evidence from barristers suggests that such a detailed contract has not been used among polygynous families.

Because it has not been done traditionally, it is unlikely that parties to an unregistered marriage would think to create such a contract. The more traditional and common option is a *mahr* agreement that defers a specific

amount in the case of divorce and can be later enforced by a court. Contract stipulations have traditionally also included financial (and non-financial) agreements beyond *mahr* payment, and these, too, would likely be enforceable under contract law theory.

## Conclusion

The incidence of polygyny is difficult to estimate because these marriages are unregistered. Its effects on individuals within a community can nonetheless be measured by surveying the community, evaluating the cases in the family law court system, or obtaining data from *shariah* councils through which many of the religious divorces take place. While studying *shariah* councils is outside the scope of this paper, I identify this as an avenue for further research.

At times, parties are unaware that *nikaḥ* contracts are not sufficient to register a marriage under the law. Other times, parties are aware but still fail to register in hopes of giving their Islamic marriages more weight. Some barristers advocate for having a sign at imams' offices advising couples of the difference between *nikaḥ* contracts and registered marriages. The case of polygyny takes the lack of registration one step further in that a campaign to increase awareness about registration would not necessarily solve the problem because a polygynous marriage cannot be registered. Thus, some solutions to the problem of a lack of financial rights are to either refrain from entering into a polygynous marriage in the UK (with the option still open to marry in a country whose law recognizes polygyny) or to enter into an enforceable contract that outlines financial responsibilities, especially the traditional institution of *mahr*, in the case of divorce.

Islamic institutions in the UK should take a firmer stance in discouraging polygyny because in addition to a loss of legal rights, polygyny that is not agreed-upon by both the husband and the first wife leads to the wife's loss of agency; she may feel powerless when her husband engages in polygyny because despite her disapproval, there is a sense that the religion sanctions this behavior. For this reason, there is a need for a campaign by Islamic institutions that particularly discourages secret polygynous marriages that surprise the first wife and leave the subsequent wives with no recourse in the civil courts. Given the anti-Muslim sentiment that is common in government officials and the media and the suspicion with which the Muslim community is treated, such a campaign would not only draw more legitimacy because of

its grounding in traditional Islamic remedies such as *mahr* agreements, but it would also be accepted by the Muslim community more readily than a campaign from those who harbor negative feelings toward Islam and its presence in the UK. With a more inclusive understanding of Islam and recognition of its practices, the feelings that cause many Muslim institutions and individuals to hold steadfastly onto practices like polygyny for fear of losing their identity to the bigotry, fear, and hatred that surround them will dissipate. The English legal system need not recognize polygynous marriages, but it should, and has, recognized contracts that come with a religiously valid marriage like *nika* .

In an effort to maintain financial recourse for women engaged in polygynous marriages, English courts should continue to enforce *mahr* agreements as contracts. This will protect the rights of those in religiously valid marriages without condoning polygyny. Those choosing to enter into polygynous marriages will then have an option to use the English legal system to draft *mahr* contracts that sufficiently protect them so that they are not left without recourse upon dissolution of marriage.

# Institutions of Islamic Law in Europe:
# Family Dispute Resolution for British Muslims

YVONNE PRIEF

## Abstract

*While Islamic institutions have been resolving family disputes on the basis of Islamic principles in the UK for more than thirty years, their practice has notably become subject to discussion and criticism over the past decade. Academic research on the subject of sharia councils and the Muslim Arbitration Tribunal (MAT) is still fractional, however, and only few empirical studies have been conducted and published so far. This paper focuses on the procedures used by sharia councils and MAT. The English legal system supports alternative dispute resolution (ADR). This legal framework could be referred to by Islamic institutions as a basis for their procedures used in resolving marital disputes. Attempts at reconciling spouses or leading them to divorce may conform to ADR methods specified in the Civil Procedure Rules. The mere dissolution of an Islamic marriage, on the other hand, does not have any impact as far as English law is concerned. The institutions receive numerous cases including domestic violence. Whether English law is observed by the institutions in such cases, as they assure, remains to be reviewed. The information on sharia councils and MAT presented here was collected through interviews, observation and case file analysis.*

## Introduction: Debating "Sharia Courts" in the UK

In 2008 the former Archbishop of Canterbury, Rowan Williams, discussed in a public lecture whether religious law could be applied in the UK.[303] On the same day the BBC headline read "Sharia law in UK is 'unavoidable'"[304] and the "sharia law row"[305] broke out. The public debate is widely channelled by the media: whether in newspapers or on television, so called "sharia courts" are presented, observed and criticised in numerous articles and films within the UK and even abroad.[306] Several politicians as well as the then Lord Chief Justice, Lord Phillips of Worth Matravers, saw need to give a public statement clarifying that the speech of the archbishop did not suggest that Muslims in the UK should be under the jurisdiction of the sharia. Instead Williams thought about:

> "a scheme in which individuals retain the liberty to choose the jurisdiction under which they will seek to resolve certain carefully specified matters (…). This might include aspects of marital

law, the regulation of financial transactions and authorised structures of mediation and conflict resolution (…).”[307]

Lord Phillips stated, that in contract law, for example, parties can agree on the contract being governed by a law other than the law of England and Wales, that in mediation and arbitration parties are free to choose their mediator or arbitrator according to their own discretion and that therefore “there is no reason, why principles of sharia law or any other religious code, should not be the basis for mediation or other forms of alternative dispute resolution”[308]. In other words: Muslims can make use of the English legal system's acceptance and even promotion of alternative dispute resolution (ADR) in order to solve conflicts in conformity with Islamic legal principles.

The Islamic institutions called “sharia courts”[309] by the media solve disputes according to sharia principles and claim to do this in accordance with English law. If Lord Phillips' statement is to be taken for granted, the question arises whether the procedures performed by the Islamic institutions in question can be subsumed under the term ADR as established in the UK. What kind of cases do the institutions deal with, what do their procedures look like and which Islamic concepts do they draw upon? Do the procedures' results have any legal consequences?

Information on the institutions and their practice was collected through interviewing representatives of the institutions. All big sharia councils also allowed some direct insight into their business: some freely allowed me to sit with the sharia council and observe hearings of clients as well as panel discussions.[310] Other sharia councils restricted observation but granted access to a number of case files.[311]

### Sharia councils and the Muslim Arbitration Tribunal: Institutions performing alternative dispute resolution?

Sharia councils have been in existence in the UK since the 1980s. Their number is sometimes estimated at 60 to 70[312] or even 85[313]. The author of the study giving this last number speaks of sharia councils operating “mainly out of mosques dotted around the country”[314] and a community insider says that “(…) those sharia councils can come into existence and then can be disbanded after the purpose has been served.”[315] In this paper, however, the focus shall be on sharia councils who present themselves in an institutionalised way – by acting continuously throughout the year, maintaining an

office, a service number and a website and which are therefore easily accessible. There are far fewer of these: four big, well-known sharia councils and six smaller ones.[316]

Sharia councils are unofficial institutions having no legal authority given to them by the state. Their main workload consists of marital disputes, which – if saving the relationship seems impossible – end in either Islamic divorce or dissolution of the Islamic marriage contract.[317] Another service some sharia councils offer is issuing fatwas, mostly on questions that arise out of the situation of living in a non-Muslim majority state.[318] As Lord Phillips publicly stressed, Islamic principles can be the basis for ADR in marital disputes. He is referring to the legal situation in the UK: disputants are encouraged to consider "negotiation or some other form of ADR"[319] instead of aiming for litigation directly and thus relieving the civil courts. This means that questions following the separation of a couple, like financial or maintenance agreements as well as child arrangements, can be decided by the parties themselves through ADR if they want this. In fact, parties are required to attend a "Family Mediation Information and Assessment Meeting" (MIAM) before turning to the courts, in which an authorised family mediator informs them about mediation and other forms of ADR and "assesses whether mediation is appropriate in the circumstances"[320] or if another form of dispute resolution might be suitable.[321] The mechanisms of ADR that have to be considered apart from mediation are arbitration, early neutral evaluation and Ombudsmen schemes.[322]

Non-court dispute resolution is a practice recommended in the Qur an in the context of marital disputes. Reconciliation of the spouses is the primary objective of *taḥkīm* (arbitration),[323] whereas *sulḥ* (mediation) is introduced as a method of dispute resolution aiming for an amicable settlement between the spouses upon separation.[324] So both English and Islamic law know and support methods of alternative, i.e. non-court dispute resolution.

Clients – mostly Muslim women – usually approach a sharia council in order to obtain an Islamic divorce or the dissolution of their Islamic marriage. While a Muslim man can end his marriage unilaterally by pronouncing *ṭalāq*, a Muslim wife cannot do this, unless there is a special clause in her marriage contract delegating the husband's right to divorce to the wife.[325] This is not commonly the case among Sunni Muslims in the UK,[326] so that a wife wanting to end her marriage religiously needs to either persuade her husband to grant

her divorce, which is called *khul'*, or obtain a judicial dissolution of the Islamic marriage, which in the UK can be done through a sharia council or MAT.

A significant number of the divorce applications sharia councils receive are by women in unregistered religious marriages. Legally, such couples count as cohabitees in the UK, lacking the rights spouses would have upon marital breakdown. If a couple's marriage was registered in the UK as a civil marriage, either by a registrar or upon entering the country,[327] they do need a civil divorce as well. For the women turning to the institutions in order to terminate their marriages religiously this is important – even though they might already be divorced by civil law or being aware that their Islamic marriage does not count legally – because of their acceptance in the community, their possibility to remarry religiously or simply their wish to comply with the moral and the religious law (*'adāla*).[328]

Upon contacting a sharia council because of a marital dispute, clients are usually asked to file an application form and state their case in writing including reasons and difficulties. The sharia council will read the viewpoints of both spouses and evaluate whether saving the marriage seems possible.[329] This is one main concern mentioned by most sharia councils and it underlines the religious motivation of their practice, originating from the Qur an.[330] The procedure which is followed slightly varies between the institutions, but there are basically three steps taken, which lead to different outcomes.

The first step is taken if the spouses agree on trying to save their marriage. While one sharia council said they would usually insist on trying to reconcile the couple,[331] other sharia councils state that they do offer and approve of reconciliation, but that wives approaching a sharia council have in most cases already made up their minds that they can no longer stay in their marriage.[332] If a chance for it is seen, however, the sharia councils will try to reconcile the spouses, preferably in joint meetings, which some sharia councils call a "mediation process"[333] in accordance with the Qur'anic term.[334] In mediation as understood in the UK, a third party helps the disputants to find a solution for their problem between themselves, without proposing any solution to them. The process as described by sharia councils and clients, however, does include advising the parties on how to take an Islamic course of action in their situation.[335] This can in fact already be seen as a proposition on how the problem could or should be solved. A client explained that she and her husband went to a joint mediation meeting at a sharia council, where they

explained their situation. An analysis of their behaviour showed that they were not only arguing but also not praying and being too selfish. The mediator then told them about the Prophet Muḥammad's life, his positions on love and forgiveness, and asked them to think about leading their lives according to the sharia, work on several aspects together and come back a few weeks later to see whether their attitudes had changed.[336] So in this session, concrete rules of conduct were recommended to the couple. In order to classify such a procedure I would therefore prefer to either stick with using the terms "conciliation" or "reconciliation" instead of "mediation" or to employ the phrase "early neutral evaluation", which is specified as "a third party giving an informed opinion on the dispute"[337] in the Civil Procedure Rules.

The same description fits the second step as well: If one of the spouses refuses to reconcile or if the attempt to do so fails, the sharia council will usually aim at obtaining a *khul'* for the wife, i.e. advise and ask the husband to grant his wife divorce. At this point there will usually be conditions such as the wife's sacrificing her *mahr* (dowry), for which the relevant passages of the marriage contract as well as their actual realisation, i.e. whether it has been paid or not, will be taken into consideration. Some sharia councils will also advise their clients on how child custody would be arranged according to Islamic law.[338] But although such an agreement could theoretically be taken between the spouses alone in form of a "Family-based arrangement", wherefore there is no reason why it could not also be taken between them at an Islamic institution, sharia councils claim to leave the actual settlements to the courts.[339] Finally, an Islamic divorce certificate will be issued by the institution, but in case of *khul'* the divorce will not be *pronounced* by the sharia council. It will formally be the husband's decision on request of his wife and on recommendation of the scholars.

If a sharia council is satisfied that a marriage cannot be saved, i.e. that there is no chance for reconciling the couple, but the husband refuses to divorce his wife through *khul'*, the scholars will move on to the last step and dissolve the Islamic marriage contract on grounds of Islamic legal principles without the husband's consent, which is called *faskh*[340]. This judicial dissolution of a marriage is a concept known in classical Islamic law. Sharia councils claim not to follow a specific school of law (*madhhab*) but either to serve their clients according to their preferred school[341] or to rather take their rulings directly from the Qur'an or hadith.[342] Accordingly, they do not specify which *madhhab* they follow when accepting grounds for *faskh*. While in classical

Islamic law the Hanafi school accepts only the impotence of the husband, if it was not known of by the wife at the time of marriage, as a valid reason for *faskh*, the other schools are much more liberal and accept a range of reasons such as mental or physical defects, enduring absence of the husband, the failure to maintain his wife or ill-treatment.[343] The majority of Muslims in England is from Pakistan,[344] where the Hanafi school prevails.[345] Even so, the Hanafi position on *faskh* is not adopted by sharia councils, which could be explained by the fact that "back home" in Pakistan as well, it is not classical Hanafi law that is applied in these cases, but the Dissolution of Muslim Marriages Act 1939, said to be inspired by Maliki law.[346] It is striking that the reasons given most often for divorce in sharia councils – domestic violence, lack of maintenance, abandonment and adultery – correspond with the reasons for the judicial dissolution of marriages given in the Dissolution of Muslim Marriages Act 1939.

At Birmingham Central Mosque, an "irretrievable breakdown of marriage" – in fact a legal term describing the prerequisite to obtain a civil divorce through an English court – is furthermore seen and noted down as a valid reason for the dissolution of a marriage without need of further details. It is often explained by other grounds such as physical and/or mental abuse or a lack of maintenance, though.[347] The term "irretrievable breakdown of marriage" seems to match the concept of *shiqāq*, taken directly from the Qur an (sura 4, 35). In cases of imminent discord two arbiters from the couple's families are to be appointed in order to either reconcile the spouses or – upon failing to do so – dissolve the marriage. According to Maliki law the arbiters represent the judge and can therefore dissolve the marriage without the husband's consent.[348] The use of the English legal term in the context of an Islamic reasoning is very interesting and confirms the idea of a so-called "angrezi shariat" – a hybrid composed of aspects of English and Islamic law.[349] When acting according to "the sharia" the institutions call upon the teachings of the different schools of law as needed, take their reasoning from the Qur an and hadith directly or resort to statutory law, e.g. from Pakistan.

Taking a *faskh* decision can be called neither "mediation" or "conciliation" nor "early evaluation", as it is not taken by the parties alone but by a panel using its authority within the religious community to do so. It cannot be called "arbitration", as in the case of *faskh*, the husband has usually not agreed to seek a decision by a sharia council. Therefore this last step of marriage

dissolution by sharia councils cannot be credited as ADR.

The Muslim Arbitration Tribunal[350] (MAT) was set up in 2007 and is the first Islamic institution claiming to perform arbitrations under the Arbitration Act 1996, meaning that their arbitrated decisions are expected to be binding for the parties and could theoretically be enforced by the English courts.[351] The institution works with solicitors and barristers of law as well as Islamic scholars. MAT states that about 10% of the cases they receive are arbitration cases dealing with commercial disputes, 20% are related to Islamic divorce or marriage dissolution and other matrimonial issues.[352] The rest of the cases involve mediation.[353] Matrimonial issues are not counted as arbitration or mediation cases by percentage, which might indicate that here, too, the mechanisms used to resolve those disputes are of a different form. In case of marriage dissolution and divorce this is likely, as the procedure and its outcomes resemble those found at sharia councils. MAT does officially offer "Family Dispute Mediation" on its website, however,[354] which casts doubts about the tripartite categorisation cited above.

MAT did not facilitate observation of any sessions, but according to the description given by the institution, the process called "mediation" here matches the term, as it is performed accordingly by trained mediators. The agreements reached can be transformed into consent orders by the parties' lawyers, if they wish, and then be presented before an English judge in order to make them legally binding.[355]

## Conclusions

Demand determines supply. For many Muslims a religiously correct separation is either personally important or required within their social circles. Therefore the dissolution of Islamic marriages performed by the institutions for Muslim women, especially those married only religiously, has to be credited as a valuable service. It has become clear that while the dissolution of an Islamic marriage is not an act of ADR, the steps taken by the Islamic institutions preceding marriage dissolutions as well as obtaining a *khul'* for the wife can be subsumed under ADR. It is important to highlight a few things, however:

First of all, while trying ADR to solve a private dispute is generally required before turning to the courts, none of the Islamic institutions mentioned above

is authorised to conduct an official MIAM.[356] Except for MAT, it is also quite unclear whether the staff involved in the procedures are properly qualified to act as mediators.

Having a MIAM is optional, if "at the time of making the application, the person is participating in another form of non-court dispute resolution relating to the same or substantially the same dispute"[357] – which means that the courts should technically recognise ADR procedures performed by sharia councils or MAT. There is to date no information on hand whether this is handled accordingly in real cases. Furthermore there are other exemptions from the MIAM requirement: in cases of domestic violence, child protection concerns and urgency to name but the most important, an application to the court can be made without delay.[358] In such cases, ADR does not have to be considered. MAT openly states on its website that "(…) where there are criminal charges such as assault within the context of domestic violence, the parties can ask MAT to assist in reaching reconciliation (…)". The agreement could then be forwarded to the Crown Prosecution Service in hope of them "(…) reconsidering the criminal charges"[359]. MAT stresses, however, that in cases of domestic violence they ask the victims whether they want to file charges and if necessary empower them to do so. But in less extreme cases, MAT says, the victims often prefer not to go to the police. In these cases MAT tries to find a solution by empowering the victim, assuring the victim of the support of the community and also by reminding the offender of the consequences of such violent behaviour before God,[360] which means "putting the fear of God into that person"[361].

Sharia councils, on the other hand, claim that they do not meddle with cases of domestic violence.[362] They do get numerous cases of women seeking divorce or dissolution of marriage because of domestic violence,[363] however. A critical question often raised in the media is whether in these cases sharia councils refrain from reconciliation or whether they use methods of dispute resolution. It is claimed that they put clients who are crime victims under pressure to conceal criminal offences and make clients stay in possibly harmful situations.[364] Sharia councils reject this accusation and some say they instead work together with social services or the police.[365] This remains to be investigated further, the difficulty being that what happens during sessions unobserved by third parties like reconciliation meetings is so far only known through rare reports from the parties involved.[366]

While the procedures used by sharia councils and MAT do not themselves contradict English law, their realisation remains to be observed in further detail. The institutions have opened up to researchers to some extent, which is not yet satisfying but can be seen as a step towards some transparency.

# Muslim Family Law: How do Muslim Women Pursue Divorce in the UK?

ISLAM UDDIN

## Abstract

*This study focuses primarily on the issue 'How do Muslim women pursue divorce in the UK?' The aim of the research is to ascertain the choices Muslim women make when pursuing divorce and to determine the consequences of such decisions. The practice of Muslim family law exists within the private sphere, and there is a lack of documented evidence of Muslim marriages and divorce cases reported. This study employs a qualitative research methodology, using phenomenology as the methodological frameworks for the fieldwork. The researcher conducted in-depth interviews with British-Muslim women living in London to gain an understanding of the issue from their 'lived experience'. Furthermore, the researcher interviewed experts ranging from Imams, Shariah council judges, solicitors, and counsellors; and observed Shariah council hearings. The data collected was analysed using thematic analysis, and the emergent themes from the rich data provide a deep insight of the research problem, allowing a socio-legal examination of the 'law in context', firmly embedded in the 'lived' experience.*

## Introduction

Muslim family life represents one of the greatest expressions of religious identity, especially as Muslims feel a need for religious marriage (*nikah*) and divorce (*talaq*).[367] Hence, many Muslims will marry and divorce according to the customary laws of their country of origin.[368] For Muslims, the marriage (*nikah*) is a moral imperative and binding 'religio-legal' contract, which legitimises sexual intercourse,[369] not a sacrament, but spiritually marriage is seen as worship.[370] *Nikah* is the basis to start a relationship, and found a family, as the Quran prohibits any pre-marital sexual relationship.[371]

English law is a monolithic legal system, meaning there are no foreign or parallel systems of law; as such, matters pertaining to marriage, divorce and children are exclusively legislated by civil law.[372] Legislation such as the Marriage Act 1949 and, Matrimonial Classes Act 1973, stipulate conditions for a valid marriage and divorce. For a marriage to be valid in the UK, it must be monogamous and meet the requirements of a civil marriage i.e. take place

in an approved building and certified by an authorised person. There is an exception made to the Marriage Act for Jews and Quakers who may marry according to their usage, a tradition dating back to the Marriage Act of 1753. Similarly, before granting a decree of divorce or judicial separation, the courts need to be satisfied the marriage is valid; and extra-judicial divorce (e.g. *talaq*) has been invalid in Britain since 1974. The Divorce (Religious Marriages) Act 2002 gives the court the power to refuse a decree absolute if steps are not taken to dissolve a religious marriage; though this Act is primarily used in cases where a '*get*' is refused in Jewish usage, it extends to other religions. In short, any religious marriage or divorce must meet the above-mentioned conditions to be valid in an English civil court. As a result, some Muslims marry twice and divorce twice (i.e. have a religious and a civil process).[373]

Unregistered marriages such as, '*nikah* only' ceremonies conducted in the UK are classed as 'non-marriages', and have no legal recognition and therefore no recourse to family courts in times of marital disputes.[374] A dual religious and civil marriage ceremony are possible;[375] however, only 1 in 10 mosques in the UK are registered to provide such a service.[376] Nonetheless, some view that Muslims would not approach a civil court for a religious divorce, as the judge would not refer to Shariah law.[377] Thus, Muslims may refer to themselves as having a distinct 'law' or minority legal order (MLO) i.e. non-state normative social action characteristic of state law.[378]

In the absence of any official Shariah body, [diasporic] Muslim communities will follow 'Private International Law' in matters of Shariah law.[379] Muslim men and women turn to religious framework and norms for personal needs and during crisis e.g. divorce.[380] In particular, there is limited scope for Muslim women to divorce, who if their husbands refuse to grant divorce by way of *talaq* (unilateral male initiated divorce) must approach a religious authority to attain release from the marriage whether it be *khula* (female initiated divorce) or *faskh* (judicial annulment). The Muslim community does not recognise secular divorce, and therefore, women granted civil divorce will still be considered married unless they receive an Islamic divorce;[381] thus, one of the reasons for the emergence of Shariah councils.[382] Others argue that turning to religious based alternative dispute resolution (ADR) mechanisms, such as Shariah councils, Muslim women receive unfavourable outcomes and have a weak bargaining position.[383]

However, Malik contends there are considerable empirical gaps on

understanding the experience of those who use MLO, and whether they face unjust outcomes or secure autonomy as individuals.[384] Existing data show that thousands of disputes between Asians [Muslims] never come to official courts.[385] Thus, this paper aims to explore the 'lived experience' of divorce from the perspective of British-Muslim women living in London and examine the views of experts and professionals who advise and support Muslim women who undergo divorce.

## Research Methodology

This study employed a qualitative methodological approach using 'phenomenology', which attempts to understand the meaning and essence of an experience as viewed by participants.[386] The researcher conducted in-depth interviews with British-Muslim women, and further interviews with experts, all chosen using purposive sampling techniques. In addition, there were participant observations of Shariah council hearings. The researcher maintained reflexivity throughout the fieldwork i.e. interviews, observations, transcriptions, and data analysis.

The research focused on the central research question, 'how do British Muslim women pursue divorce in the UK?' the sub-research questions explored the choices women made when deciding to divorce and the problems faced during and after the divorce process. The research also aimed to explore 'what role experts played in supporting, shaping and influencing the decisions Muslim women when divorcing?' The data collected was analysed using thematic analysis, which produced several themes and subthemes related to answering the research questions.

## Sample Selection

The researcher used a network of contacts using friends, family, colleagues, and associates from the Muslim community to recruit participants. The researcher avoided approaching institutes and organisations such as solicitors, Shariah councils and women's groups for participants for three reasons. Firstly, it would entail approaching a gatekeeper or someone who controlled access to participants, and, therefore, the difficulty in gaining their permission before approaching participants.[387] Secondly, previous studies have indicated that approaching one or two particular institutes can represent a minority grouping and not reflect the true nature of the problem.[388] Thirdly, the

researcher took an inductive method of inquiry, i.e. bottom-up approach, and wanted to explore the problems without testing any hypothesis associated with any institutional practices.[389]

The majority of the participants recruited were via convenience sampling and a few via snowballing. The snowballing technique was not as successful as hoped, mainly due to participants feeling, the subject of the study 'divorce' was a sensitive matter, and not all their friends or contacts were willing to give an interview. The number of participants selected for this study was based on the concept of gaining 'data saturation' whereby the number of interviews continued until the data collected produced no further insights.[390]

### Profile of the Women Interviewed

The data provided a profile of the women who participated in the study. The participants were all second-generation British-Muslim women living in London. The majority of the women interviewed were in their mid-thirties to their early forties, with the average marital age being eighteen. They all received a British education and were mainly college-educated, and their occupation status nearly evenly split between employed and unemployed.

### Expert Interviewees

The researcher interviewed experts i.e. professionals identified as providing services to Muslim women during marital disputes and divorce. The advantage of expert interviews is that they can provide insights into topics, where there are insufficient data or limited available knowledge about the subject.[391] The experts chosen were imams, Shariah council judges, solicitors and counsellors. The number of expert interviewees chosen followed the same theory of data saturation used for selecting the Muslim women participants

### Findings – Muslim Women

*Marriage*

In researching divorce, it was natural to enquire as to how the participants married. The common themes emerging from the data identified the processes of selecting a suitor, the type of marriage ceremonies undertaken, and the nature of trans-national marriages (TNM). Arranged marriages

highlighted the influence of family members in selecting a suitor and formalities.

> My marriage was arranged by mutual agreement. Initially, it was just me and him [husband] at my brother-in-law's house, just to see whether we like each other, we did the formalities straight after. (Kulsuma)

> My brothers were not keen on me getting married. I was young and they probably sensed this guy is not suitable for me. My dad had the upper hand. He said "If you don't marry, then go and stay with your brothers. If you think I'm right, then stay with me [i.e. agree to marry]." (Zaynab)

Participants involved in forced marriages described how they were abroad with their family and unaware of any marriage plans.

> I didn't know I was getting married. I found out on the wedding day. My brother took me to an empty room. There were about ten to twelve relatives at the door. He locked the door and said, "you're getting married." I couldn't believe it was true, my brother was doing this to me. (Nabila)

Participants that chose own-choice marriages narrated difficulties in their family lives prior to seeking marriage, which led them to choose their own partners.

> I met him when I was young. My parents had split up and he was a shoulder to cry on, I wanted a happy ending, so I left home and married him. (Faiza)

Participants chose to marry via either *nikah* and a civil registration or a *nikah* only ceremony. The participants gave reasons for unregistered marriage.

> We had the *nikah* but the main party was not done. They were waiting for his older siblings to marry. I lived at my parents' house and I waited for two years, I couldn't be patient anymore. Only certain people knew about the *nikah* from my family. (Lily)

> I wanted a registry. He [husband] kept saying it's not necessary, but I know that in this country it is necessary. He didn't want to do it. (Jahanara)

> I just had an Islamic marriage. Not bothered with a civil [registry], because it's my second marriage. It's irrelevant. (Rushna)

With regard to trans-national marriages (TNM), participants married non-UK nationals whilst abroad and visitors to the UK.

*Marital problems*

Before ascertaining the type of divorce processes pursued, the researcher inquired as to the reasons for the marital breakdown. The participants rarely

cited one reason for seeking grounds for divorce, usually, there was a combination of problems. Reasons for divorce related to domestic violence (DV), trans-national marriage (TNM), in-law interference, adultery, polygamy, desertion and unreasonable behaviour e.g. drug addiction. Some of the comments expressed by participants were:

> The problem is he changed completely after we got married. He used to beat me up. I got tortured. I wasn't allowed to go out the house. I was not allowed to contact nobody. (Rupa)

> I felt a facade behind the wedding, what was his intention to marry me. (Tina)

> From day one, there was a problem. My mother-in-law never accepted us. She said, "your marriage will break down." She had plans for him to marry his cousin abroad. (Fahima)

> I knocked on the door and a woman opened it. I asked for my husband, he came rushing out and said, "let's go". I said, "Who is she?" He said, "There's nothing going on, she's only a friend". Later I found out she was three months pregnant with his baby. (Faiza)

*Mediation and Reconciliation*

When a dispute occurred in the marriage, the participants mentioned that mediation or reconciliation involved their families, in-laws, imams, and Islamic counsellors.

> We had a meeting they brought my husband and they had an imam present. They [family] did not discuss the issues; they just said, "say sorry to each other." (Aisha)

> We went to a marriage counsellor, a professional from an Islamic organisation, but there's only so much that they can do. (Lily)

Participants also mentioned pressure received from the family to reconcile and the lack of support during separation.

> My brothers said, "Divorce is not an option, forgive him, and give him one more chance." Clearly to my family divorce is a bad thing, how are they going to face people? So it was a case of stay in your husband's house. (Zaynab)

> We separated; I went to my parents' house. My dad was so embarrassed. He couldn't stand me, he used to hate the sight of me. (Rupa)

*Divorce*

The divorce process for participants with a civil registered marriage varied from seeking a civil divorce first and then pursuing a religious divorce and vice versa. Participants mentioned how they lacked knowledge of the civil divorce process and received guidance from others.

He walked out the house and said he was not returning. His solicitor wrote to me. I showed the letter to others, I didn't understand, I got scared. I found a solicitor, who explained my husband wanted a divorce, and access to the children. (Parvin)

He gave me the *talaq*, but I still need to get a civil divorce. (Henna)

Participants with unregistered marriages only pursued an Islamic divorce; they were aware that they had no recourse to attend a civil court for a divorce, and neither did they have the desire to follow a civil process. The easiest process of Islamic divorce was when the husband gave *talaq*.

We were separated. He came one day and told me to sit in the car. I sat down, he said, "I'm divorcing you, I'm divorcing you, I'm divorcing you' then turned to me and said 'that's it you're divorced." (Rupa)

We were estranged. I said "fine, just divorce me." A few days later, he gave me *talaq*. Hearing divorce was difficult to swallow. It seemed unreal. (Faiza)

In contrast, the withholding of religious divorce by the husband proved problematic for participants with civil registered and unregistered marriages. Moreover, the ambiguity of the status of civil divorce in relation to a religious divorce further complicated matters.

I spoke to the mosque. They told me, according to Shariah law I needed an Islamic divorce. I said, "I got a civil divorce and been separated a long time, why do I need to go through an Islamic divorce?" They said, "You married the Islamic way, you need to finish the Islamic way." (Nabila)

Where the husband refused to grant a religious divorce, participants either approached a Shariah council, or accepted their civil divorce, or a long separation as sufficient for an Islamic divorce.

He [husband] said he was never going to give me a divorce. So I asked my cousin, he's a Hafiz [memorised Quran], he said, "apply to the Shariah council they will help you." (Jahanara)

I went to the mosque and they were not helpful. I asked a friend who studied Shariah, and I was told that a long separation after a civil divorce means that you are no longer in wedlock. (Aisha)

I went to the mosque and asked for an Islamic divorce. The imam tried to patch things up, I said, "Even after I've been through DV?" He said, "DV is not a good enough reason." My brother said, "come on, let's go, you've got a civil divorce and that's enough." (Salma)

Participants explained the importance of Islamic divorce, which allowed them to be free from the marriage and move on with their lives, in compliance with norms in the Muslim community.

To hear *talaq* meant it was official, you've severed the link with them [in-laws]. (Faiza)

Otherwise, people think you are still married. (Fahima)

I asked for the divorce certificate from the Shariah council. He wasn't bothered, but he gave it a year later. I needed it to move on. I needed proof my first marriage ended for any potential groom. (Kulsuma)

With regard to pursuing maintenance and *mahr*, participants either abandoned chasing payment or found difficulty in obtaining payments.

I did not go for maintenance it was a personal choice. I was not going to beg, if he's going to give it, he should do so voluntarily. (Faiza)

He told the courts "I'm not working." He left work. They couldn't get anything from him, they said, "he's unemployed." (Parvin)

He wouldn't give my *mahr*. I called the mosque to get advice, and I did not find them helpful, so I've left it. I don't want to deal with my 'ex' anymore. (Aisha)

Post-divorce, participants expressed that men moved on quickly and remarried without to be questioned by the Muslim community. On the other hand, divorced women were labelled, stigmatised, and blamed for the divorce. Nonetheless, some participants remarried; though they viewed, the Muslim community did not support divorced women.

## Findings – Experts

In analysing the data, the experts can be categorised into three broad categories: those who provide Islamic or Shariah services, those who provide legal services, and those who provide counselling to women.

### Use of services

The experts expressed differences in the level that Muslim women would refer to their services. The imams felt they received many inquiries especially at the early stage of any marital disputes, but overall the experts including the solicitors and counsellors felt resistance to using their services.

One of the first points for women in this situation who seek divorce or clarification is their local Imam and scholars. (Imam #1)

What happens is that people generally ask *fiqhy* (jurisprudence) questions to those who have studied some Islamic sciences. (Imam #2)

She [client] came to the solicitors because of her family. She wants to save the marriage; her family pressured her to divorce due to his violence. (Solicitor #1)

Sometimes clients want to stay in a relationship. They only come to us because of social services. (DV counsellor #1)

People try to rectify their own situation before approaching family and trusted friends and the imam is a last resort. (Imam #1)

*Marriage*

The experts appreciated why Muslim women needed to have an Islamic marriage. The imams felt *nikah* was a social norm, validating marriage in the eyes of God and the Muslim community, and that civil registration was not sufficient for an Islamic marriage.

People want Islamic marriage because of religious feelings and sentiments. (Imam #2)

Obviously, any Muslim has to get an Islamic marriage, it's a norm, I mean a Muslim cannot be married until they do the Islamic *nikah* (Imam #1)

Civil registration is for legal convenience. For Muslims civil registry is not getting married but a pre-party to the *nikah*, it carries no weight. The *nikah* has weight in the eyes of god, faith and the community. The couple would not live together after civil registration. (SC Judge #1)

The solicitors also agreed that their clients needed an Islamic marriage, though some felt clients may be confused with its legal validity.

For our clients, there is a religious need for *nikah*. (Solicitor #1)

Certain clients think English law recognises *nikah*. (Solicitor #2)

In general, the experts agreed civil registration of marriage provided women legal protection and rights.

I'm not a lawyer but it actually the law of UK provides a safety net and protection for women it's actually Islamic in my opinion. (Imam #1)

English law does not let women and children suffer. (Solicitor #2)

*Nikah* only marriages give women less protection; men feel they have more rights over the women. (DV counsellor #3)

Moreover, the solicitors reiterated concerns that unregistered marriages left clients without legal protection.

Women in *nikah* only marriages have no rights. They are treated legally as cohabitees. (Solicitor #1)

Non-registration of marriages is throwing away the opportunity to justice. Registration allows access to courts and the spouses are protected financially. (Solicitor #2)

Even so, the experts commented that civil registration of marriages did not necessarily stop Muslim women facing misery within their marriage and the home environment.

> Women are told put up with it [DV], your reward is *Jannah* [Paradise]. (DV counsellor #2)

> This is the husband's third civil marriage, the previous [two] ended in divorce, as he was violent. (Solicitor #3)

> It is good that people do not live together [in extended families] but there is still the wider network, social media, so family members can still influence the husband and the wife. (Imam #2)

### *Mediation*

The imams viewed that couples needed counselling before marital problems escalated. The common reasons for marital disputes were over roles, work, duties at home, finance, sexual frustration and DV. However, the experts agreed to turn to family and friends did not always resolve problems. The main concern for their clients was that disclosure to outsiders would bring shame upon the family.

> Families make matters worse; they have an inability to make things better. (SC Judge)

> People use friends because of less cost, trust and culture; but proper counselling can save the marriage. (Solicitor #1)

### *Domestic Violence*

According to the solicitors, DV is common in Islamic divorce cases. The DV counsellors expressed that the perpetrators were mainly the husbands and the in-laws, and were manipulative and cunning at hiding their actions from others.

> Sometimes her [wife] family will never ever know about the DV, as the husband looks squeaky clean. (DV Counsellor #3)

> Victims are isolated in the home, and the wife is vulnerable especially if she lives with the in-laws, mother-in-laws are controlling. (Solicitor #3)

The DV counsellors viewed that women stayed in their marriages despite the DV, as they genuinely cared for their husband, or had children or married cousins, and therefore, felt obligated to remain in the marriage. The counsellors felt women viewed marriage as their whole life and try to make it work even if it is a false hope. The solicitors viewed their clients had extra pressure from the Muslim community to remain silent about DV.

Women told live with it, he will grow out of it, and that she will bring shame [if she speaks out]. (Solicitor #1)

The GP or health visitor may be the first person to spot the issue and give women an opportunity to speak. (Solicitor #3)

However, all the experts agreed that religion did not justify DV, and disputed religious text, which referenced disciplining of the wife.

The word 'disobedience' (*nushuz*) in the Quranic verse 4:34 is misunderstood. Women do not have to cook and clean as a religious obligation; it just has to be done. (Imam #2)

Men think they have authority [over women] but they don't. (SC Judge)

Even so, some perpetrators will use such text to their advantage.

In the Quran, man has power over women, therefore he says, "I do whatever I do", and refers to hadith "If you don't do my demands [i.e. sexual cohabitation] no matter what, then the angels will curse you." (DV Counsellor #1)

In tackling DV, the counsellors commented it takes courage for women to speak about DV in the public domain. There is a risk to the women if they speak out and consequences if the husband finds out. Hence, women have to leave the situation to find physical safety, resolve housing issues and children before they can fully recover. Even then, the experts viewed the women were not ready for divorce.

Women are not ready for divorce it is the last resort. Women do not know their rights, usually, they learn from police and victim support. (Solicitor #3)

*Divorce*

The imams expressed that Islamic divorce was a simple and quick process, and necessary to conclude the matter in a religious way.

People want a religious divorce; it gives them a sense of comfort. (Imam #1)

People want reassurance they are Islamically cleared up, and not liable to God. (Imam #2)

However, the religious experts differed on the status of a civil divorce in relation to an Islamic divorce.

If the husband signs the consent, in the Hanafi opinion it is an Islamic divorce. (Imam #1)

If husband contests the divorce, we have to apply Islamic jurisprudence (*fiqh*). (SC Judge #1)

The solicitors raised concerns that Muslim men withheld Islamic divorce to torment the spouse and stop them remarrying, and refused to pay *mahr* or maintenance. They viewed the civil divorce process was fair to women, but unregistered marriages left women with no recourse to civil courts for financial relief. They were also concerned that women coming out of broken marriages lacked financial support, which affected their ability to pursue divorce cases in court. Moreover, the counsellors expressed that women would leave their marriages only as a last resort.

> Most scholars tell clients they need an Islamic divorce. (Solicitor #1)

> Under English law, the wife and children are not made homeless; 95% of issues are resolved, *mahr*, jewellery, furniture, she gets a bigger share. (Solicitor #2)

> There is no legal aid unless DV involved. Court fees are a problem for women on benefits, who do not pursue maintenance and are left as destitute. (Solicitor #3)

> **Women leave a situation after exhausting all other means. (DV counsellor #3)**

### Culture

The counsellors remarked that Muslim couples in their home life revert to a traditional setting in which culture has a strong influence on beliefs and values. The solicitors viewed that women complied with men because of the shame of returning to their families divorced, and therefore agreed to harsh rules made after marriage, which with time restricted and controlled the women. Post-divorce, Muslim women faced being labelled and stigmatised by the Muslim community and were seen as the cause of the marital breakdown.

> Men are rarely accounted and move on quicker after divorce, while the community finds it easier to pick on women who are seen as weak. (DV counsellor #2)

> Society judges women harshly; people suspect women are the problem in divorce cases. (Solicitor #1)

## Discussion

The findings show the narratives from the participants and the experts are similar, and there a connection between the lived experience of the participants and the services provided by the professional support services.

In examining the experience of marriage, the importance of the *nikah* ceremony was evident among the participants, who viewed *nikah* as the actual

marriage, and the civil registration as a secondary issue. The *nikah* carried more weight in the eyes of the Muslim community and involved the family in its arrangement and celebration. The experts appreciated their clients need for *nikah*, but recommended civil registration for legal rights and protection, hence, unregistered marriages were a concern.

The marital problems experienced by the participants were in some cases commonplace with other groups in society and in some instances more religio-culturally specific for Muslims. For example, the experts mentioned domestic violence was common in Muslim marriages, which is a problem shared with the wider society. However, there were instances where perpetrators used religion and culture to justify domestic violence against the participants. Nonetheless, the experts agreed religion does not condone DV, though they acknowledged religious and cultural practices exist among Muslims that contribute to this problem. Similarly, reasons for divorce, like adultery and desertion are commonly shared with society, whereas problems such as in-law interference, TNM and polygamy were religio-cultural specific.

In resolving marital disputes, participants would first turn to family, friends, and use outsiders such as imams, mediators and counsellors as a last resort. The concepts of shame and honour restricted participants from turning to those outside of the family. The family, in turn, pressured participants to reconcile, which meant martial problems were left unresolved, and as a result, participants suffered longer in their marriages. In some cases, by the time experts were involved, the disputes had escalated, with the marriage irretrievably broken down and divorce becoming inevitable.

In general, for participants, divorce was the last resort. Participants with civil registered marriages pursued a civil divorce, which followed a uniform process from the petition to decree nisi and decree absolute. Participants with *nikah* only marriages relied on their husbands to pronounce *talaq* and if refused turned to Shariah councils. However, the process for Shariah council divorce differentiated between husband-initiated (*talaq*) and wife-initiated (*khula*) applications. Participants questioned the higher fees and longer process for *khula* applications but accepted that Shariah councils have the authority to issue an Islamic divorce.

The process of gaining a religious divorce for participants with a civil divorce was a more complex issue. Firstly, some participants were shocked to learn their civil divorce was not valid as an Islamic divorce, and upon enquiry found

differing opinions among religious sources on the issue. Secondly, the husband's refusal to grant religious divorce left participants potentially in a 'limping marriage'. Thirdly, participants faced confusion over the various forms of Islamic divorce. Nonetheless, participants demonstrated that in the absence of any official Shariah law, attaining Islamic divorce was not solely reliant upon Shariah councils; rather the reality of understanding Shariah was subjective and pluralistic.

With regard to financial relief, the non-payment of *mahr* and maintenance were common themes. Some participants chose to forgo financial relief in preference to avoid further contact with their husbands. Other participants experienced that Shariah councils were powerless to enforce *mahr* payments, whilst civil courts were unable to order maintenance payments if their husbands were unemployed.

## Concluding Remarks

This paper presents the preliminary findings from a larger socio-legal study investigating the phenomenon of Muslim divorce in the UK. The data highlight the complexities faced by British-Muslim women in pursuing divorce. The civil registration of marriages may provide women with legal rights and protection, though not necessarily a harmonious marriage. The religio-cultural expectations of Muslim women in marriage and divorce further complicate matters, adding pressure on women to conform to social norms within the Muslim community. Nonetheless, this study gives an insight into how the participants overcame barriers in the pursuit of divorce and negotiated conflicts between religion, culture, civil law and Shariah law.

## Endnotes

[1] Alexandre Bennigsen and Chantal Lemercier-Quelquejay, *Les musulmans oubliés. L'Islam en Union Soviétique* (Paris: Maspero, 1981).

[2] In a recent monograph on Darhad shamanism in transitioning Mongolia, anthropologist Morten Pedersen coined the expression "not quite shamans" to describe the ruptured condition of young Darhad men who appear to be exceptionally subject to the influence of powerful spiritual forces, and at the same time are structurally unable to undergo shamanic training. "Not quite shamans" are seen as recipient of occult powers, but are incapable of controlling those energies the same way as 'legitimate' shamans. Morten Axel Pedersen, *Not Quite Shamans. Spirit Worlds and Political Lives in Northern Mongolia* (Ithaca: Cornell University Press, 2012).

[3] Abdulla Rinat Mukhametov, "Parallelnye miry. 'Soblyudayushchie' i 'nesoblyudayushchie'", *Ansar* (Kazan: DUMRT, 19/08/2011).

[4] Roland Dannreuther, *Russian Discourses and Approaches Towards Islam and Islamism*, in Roland Dannreuther and Luke March (eds.), *Russia and Islam. State, Society and Radicalism* (London/New York: Routledge, 2010), 9-25, 13.

[5] In Europe, according to one of the most respected scholars in this field, they represent a seriously underrepresented silent majority. See Valérie Amiraux, *Speaking As a Muslim: Avoiding Religion in French Public Space*, in Gerden Jonker and Valérie Amiraux (eds.), *Politics of Visibility: Young Muslims in European Public Space* (Bielefeld: Transcript Verlag, 2006), 21-52, 48.

[6] See for instance Yasir Suleiman, *Narratives of Conversion to Islam in Britain. Female Perspectives* (Cambridge: Centre of Islamic Studies, 2013) and Id., *Narrative of Conversion to Islam in Britain. Male Perspectives* (Cambridge: Centre of Islamic Studies, 2015).

[7] It is important to remark that Soviet anti-religious measures varied considerably over time, ranging from rancorous persecution (imprisonment, deportation, and even murder during early Stalinism and under Khrushchev and Andropov) to more subtle policies of discrimination and manipulation in times of relative détente. Amongst the latter policies, of particular relevance is the creation of state-subservient Islamic institutions aimed at: 1) policing unruly subjects in those areas of the Soviet space that seemed unwilling to promptly embrace Soviet materialism; 2) funnelling Soviet doctrines to Muslim citizens, thus bridging the gap between state-pursued modernist utopia and the "backwards" masses; and 3) parading "Soviet Islam" in the diplomatic chessboard, especially with regards to Muslim-majority countries.

[8] The same cannot be said of more remote and conservative Muslim-majority provinces of the USSR, such as Southern Central Asia and the Caucasus. In such areas, according to my informants, the erasure of Islam proved more arduous than in the Volga Region and anti-Islamic policies yielded less substantive results.

[9] Ingeborg Baldauf, "Jadidism in Central Asia within Reformism and Modernism in the Muslim World", *Die Welt des Islams* 41 (2001): 72 88.

[10] Adeeb Khalid, *The Politics of Muslim Cultural Reform: Jadidism in Central Asia* (Berkeley: University of California Press, 1998); Adeeb Khalid, *Islam after Communism: Religion and Politics in Central Asia* (Berkeley/Los Angeles/London: University of California Press, 2007); Robert D. Crews, *For Prophet and Tsar: Islam and Empire in Russia and Central Asia* (Cambridge, Massachusetts: Harvard University Press, 2006); Mustafa Tuna, *Imperial Russia's Muslims: Islam, Empire, and European Modernity, 1788-1917* (Cambridge: Cambridge University Press, 2015).

[11] Devin DeWeese, "It was a Dark and Stagnant Night ('til the Jadids Brought the Light): Clichés, Biases, and False Dichotomies in the Intellectual History of Central Asia", *Journal of the Economic and Social History of the Orient* 59 (2016): 37-92.

[12] See, for instance, Rafik Mukhametshin, ed., *Islam i musul'manskaya kul'tura v srednem Povolzhe: istoria I sovremennost'* (Kazan, Akademia Nauk RT/Fen, 2010); Galina Yemelianova, ed., *Radical Islam in the Former Soviet Union* (London/New York: Routledge, 2010); Valyulla Yakupov, *Islam segodnya* (Kazan: Iman, 2011).

[13] Marlene Laruelle, "The Struggle for the Soul of Tatar Islam", *Current Trends in Islamist Ideologies* 5 (2007): 26-39.

[14] Devin DeWeese, "It was a Dark and Stagnant Night ('til the Jadids Brought the Light): Clichés, Biases, and False Dichotomies in the Intellectual History of Central Asia", *Journal of the Economic and Social History of the Orient* 59 (2016): 37-92, see pp. 70-77.

[15] Abu Hanifa's school has been the dominant *madhhab* in the Volga region since mediaeval times (Mukhammetshin 2006). As a result, pre-revolutionary Tatars and Bashkirs largely followed Hanafi *fiqh*.

[16] Marlene Laruelle, "The Struggle for the Soul of Tatar Islam", *Current Trends in Islamist Ideologies* 5 (2007): 26-39.

[17] My ethnography showed that Catholicism, Protestantism, Pentecostalism, Hare Krishna, Buddhism, and Neopaganism are also "competitors" in Volga region religious market, although less prominently than Sunni Islam. Note that ethnic Muslims are unlikely to convert to Orthodox Christianity, since many consider it the "Russian religion". On the topic of new religious trends in post-Soviet countries (with a focus on Pentecostalism), see Mathijs Pelkmans (ed.), *Conversion After Socialism. Disruptions, Modernities and Technologies of Faith in the Former Soviet Union* (Oxford/New York: Berghahn, 2009)

[18] On "Hizmet" see the recent monograph by Caroline Tee, *The Gülen Movement in Turkey: The Politics of Islam, Science and Modernity* (London/New York: Tauris, 2016).

[19] Alexander Verkhovsky, *Russian approaches to radicalism and 'extremism' as applied to nationalism and religion*, in Roland Dannreuther and Luke March (eds.), *Russia and Islam. State, Society and Radicalism* (London/New York: Routledge, 2010), 26-43, 35.

[20] On the link between religiosity and coolness, compare with Maruta Herding, *Inventing the Muslim Cool. Islamic Youth Culture in Western Europe* (Bielefeld: Transcript Verlag, 2013) and

Linda Herrera and Asef Bayat (eds.), *Being Young and Muslim. New Cultural Politics in the Global South and North* (Oxford: Oxford University Press, 2010)

[21] The acronym ZOZh (*zdorovy obraz zhizni*, "healthy way of life") indicates, in Russia, a transversal movement that discourages consumption of alcohol, tobacco and drugs – seen as scourges that afflict Russian society – and promotes fitness and sobriety. A fraction of this group takes inspiration from punk rock-inspired Straight Edge subculture. In Kazan, there exists a small group of Muslim punk rockers that embrace straight edge, mixing veganism, street music, and spirituality.

[22] Shamil Alyautdinov, *Trillioner dumaet* (Moscow/St Petersburg: Dilya, 2013), Shamil Alyautdinov, *Trillioner slushaet* (Moscow/St Petersburg: Dilya, 2013), Shamil Alyautdinov, *Stan' samym umnym I samym bogatym* (Moscow/St Petersburg: Dilya, 2014), Shamil Alyautdinov, *Finansy Trillionera* (Moscow/St Petersburg: Dilya, 2015).

[23] These include: seminars and workshops on halal business and lifestyle, Islamic fashion and art events, and a steady flow of publications bestriding self-help literature and Islamic theology.

[24] See, for, instance, Saba Mahmood, *Politics of Piety. The Islamic Revival and the Feminist Subject* (Princeton: Princeton University Press, 2012); Samuli Schielke, *Egypt in the Future Tense. Hope, Frustration, and Ambivalence before and after 2011* (Bloomington: Indiana University Press, 2015).

[25] Along with Orthodox Christianity, Buddhism, and Judaism.

[26] Roland Dannreuther, *Russian Discourses and Approaches Towards Islam and Islamism*, in Roland Dannreuther and Luke March (eds.), *Russia and Islam. State, Society and Radicalism* (London/New York: Routledge, 2010), 9-25, 10.

[27] Rafik Mukhametshin, ed., *Islam i musul'manskaya kul'tura v srednem Povolzhe: istoria I sovremennost'* (Kazan, Akademia Nauk RT/Fen, 2010); Galina Yemelianova, ed., *Radical Islam in the Former Soviet Union* (London/New York: Routledge, 2010); Marlene Laruelle, "The Struggle for the Soul of Tatar Islam", *Current Trends in Islamist Ideologies* 5 (2007): 26-39.

[28] As per note 7, the ultimate goal of co-optation was not to make religious communities thrive, but rather to place them under state surveillance. Undeniably, though, this margin of tolerance made the survival or religion possible in spite of the harsh conditions of Soviet atheist authoritarianism.

[29] Daria Aslamova, "Rossii nuzhen suverenny islam?", *Komsomolskaya Pravda*, 26/04/2011.

[30] As described above, Neo-Jadidism promotes non-denominational "Euro-Islam" and takes inspiration from (a misreconstructed idea of) the Jadid movement. By contrast, ethnic-minded conservatives identify "traditional Tatar Islam" as the historical heir of Qadimism (a movement antagonistic to Jadidism, rooted in theological rigour and the refusal of abrupt innovation). Neo-Qadimists maintain that a restoration of orthodox Hanafi Sunnism would provide the perfect spiritual endowment for the Tatar nation to thrive and resist Russian cultural assimilation. Both currents are concerned with the survival of the Tatar *ethnos* in the face of globalization and cultural marginalization. Both see religion as instrumental to this

goal, but the former group claims that religious innovation, or flexibility, will keep the Tatars afloat in the 21st century, while the latter maintain that conservation, or restoration, is the way to survive. Both camps are equally anti-cosmopolitan and equally vocal against "foreign" religious novelties.

[31] In the Russian Federation, a Muftiate or Spiritual Board is a local official institution seeking to coordinate religious activities within a given areas. Muftiates appoint imams, are responsible for mosques, organise celebrations, etc. Their effective representativeness of the multiplicity of the Russian *ummah* is debatable and, indeed, heatedly debated. Muftiates can hardly be said to command the respect of the majority of Muslims, yet they effectively function as links between the state and the Muslim populace.

[32] Roland Dannreuther, *Russian Discourses and Approaches Towards Islam and Islamism*, in Roland Dannreuther and Luke March (eds.), *Russia and Islam. State, Society and Radicalism* (London/New York: Routledge, 2010), 9-25, 10.

[33] Talal Asad, "The Idea of an Anthropology of Islam", *Qui Parle*, 17/2 (Lincoln: University of Nebraska Press, 2009), 1-30; Ovamir Anjum, "Islam as a Discursive Tradition: Talal Asad and His Interlocutors", *Comparative Studies of South Asia, Africa and the Middle East*, 27/ 3, (Durham: Duke University Press, 2007).

[34] Sufism used to be widespread in the Volga region until the 20th Century, when Sufi confraternities were thoroughly destroyed by the Soviet authorities. Today, there can hardly be found any "native" Sufism in Tatarstan (Alfrid Bustanov, "Sufizm v Rossii: pro et contra", *Real'noe vremya*, 31/10/2016). However, single individuals and (usually small) groups of practicing Muslims with an interest in mysticism may autonomously join transnational *tariqas*, regularly engage in *zikr*, and study literature related to Tasawwuf or Batiniyyah (in one single case I came across with, Shi'i esoteric literature was studied as well). The scope of this phenomenon is difficult to assess. Interest in Sufism is not always flaunted because of this current's poor reputation amongst many Salafi-influenced mosque-goers.

[35] In the specific context of Tatarstan, *ijtihad* is sometimes understood by some actors as a (rank-and-file) believer's licence to make unconventional or unorthodox choices in religious matters. This conviction derives from the "Jadid myth" (the belief that the Jadids had "liberalised" Islamic jurisprudence: for example, see Rafael Khakimov, "Vyzovy vremeni i modernizatsiya izlama", *Sova*, 17/02/2004. For a critical appraisal of this misunderstanding, see Paolo Sartori, "Ijtihād in Bukhara: Central Asian Jadidism and Local Genealogies of Cultural Change", *Journal of the Economic and Social History of the Orient*, 59:1-2 (2016)) and has little to do with the standard Sunni understanding of *ijtihad* as a methodology of *fiqh* accessible only to qualified specialists. The standard understanding of *ijtihad* is accepted by Tatarstani believers endowed with some degree of religious literacy. However, a degree of independent (if informed) decision-making in one's spiritual life and the ability to pursuit knowledge and engage with religious sources in a serious, yet autonomous way are highly prised amongst intellectuals.

[36] A Salafi *hadith* scholar often quoted by informants as a key reference within this group is

Sheik Muhammed Nasiruddin al-Albani (1914-1999), inspirer of an apolitical current within Salafi revivalism. See Quintan Wiktorowicz, "Anatomy of the Salafi Movement", *Studies in Conflict & Terrorism*, 29 (London/New York: Routledge: 2006), 207–239, 213.

[37] Mohammad Shahid Raza, *Islam in Britain: Past, Present and the Future* (Leicester: Volcano Press 1991); James A. Toronto, "Islam Italiano: Prospects for Integration of Muslims in Italy's Religious Landscape", *Journal of Muslim Minority Affairs*, 28:1 (2008), 61-82; Gabriel Faimau, *Socio-Cultural Construction of Recognition: The Discursive Representation of Islam and Muslims in the British Christian News Media* (Newcastle upon Tyne: Cambridge Scholars Publishing, 2013); Sally Howell, *Old Islam in Detroit: Rediscovering the Muslim American Past* (Oxford: Oxford University Press, 2014); Mehmet Ozalp, Zuleyha Keskin. *Muslim Identity Threshold*, in Derya Iner, Salih Yucel (eds.), *Muslim Identity Formation in Religiously Diverse Societies* (Newcastle upon Tyne: Cambridge Scholars Publishing 2015) 208-230.

[38] For example, Salafi theology is definitely prevalent amongst autarkists and puritans, but active interest in (or selective endorsement of) Salafi theological or juridical positions can be found – although less frequently – amongst the ranks of intellectuals and ecumenists, too.

[39] Ismaila a Cemaati.

[40] Samuel P. Huntington, "The Clash of Civilizations?" *Foreign Affairs* vol. 72, no. 3, Summer 1993) 22–49.

[41] Samuel P. Huntington, *The Clash of Civilizations: And the Remaking of World Order* (New York: Simon & Schuster, 1997).

[42] For example see Michael Dunn, "The Clash of Civilizations and the War on Terror," *49th Parallel* 20 (2007) https://fortyninthparalleljournal.files.wordpress.com/2014/07/2-dunn-clash-of-civilisations.pdf  (accessed 3 September 2016).

[43] Explore the British Library, http://explore.bl.uk/primo_library/libweb/action/search.do?mode=Advanced, search options: Main Title is (exact) islam and the west, Material type: Books, Language: English.

[44] Office for National Statistics Census 2011, Table KS201EW - Ethnic group, http://www.nomisweb.co.uk (accessed 3 September 2016) .

[45] Office for National Statistics Census 2011, Table KS209EW - Religion, http://www.nomisweb.co.uk (accessed 3 September 2016).

[46] Teun A. van Dijk, "New(s) Racism: A Discourse Analytical Approach," in *Ethnic Minorities and the Media: Changing Cultural Boundaries,* ed. Simon Cottle (Philadelphia: Open University Press, 2000), 33-49.

[47] Jamie Beatson, "Class doll sparks race row," *The Sun,* April 3, 2008.

[48] Ross Clark, "Labour's equality quango is now a laughing stock," *The Express*, February 23, 2010.

[49] "Two-thirds fear Woolwich murder will lead to 'clash of civilisations'," *The Guardian,* May 25, 2013.

[50] Jamie Bartlett, "What happens if you express a negative view of Islam?" *The Telegraph,* February 4, 2016.

[51] Derrick Purdue, "Community Cohesion, Neighbourhood  Management and Local Civic Engagement," (paper presented at Cinefogo workshop, New Forms of Local Governance and Civil Society, University of Trento, June 20-21, 2008).

[52] Adrian Brockett and Kate Wicker, "Outgroup prejudice among secondary pupils in northern England: are the predictors at the individual, school or neighbourhood level?" *Research in Education* 88, no. 1 (2012): 11-28. doi: 10.7227/RIE.88.1.2.

[53] Eric Kaufmann, "Immigration and Integration in Britain: The Great Nationalism Debate," *Nationalities Papers* 42, no. 6 (2014): 1072–1077. doi: 10.1080/00905992.2014.937685.

[54] Office for National Statistics Census 2001, Table ST104 - Ethnic group by Religion, http://www.nomisweb.co.uk (accessed 3 September 2016).

[55] Office for National Statistics Census 2011, Table DC2201EW - Ethnic Group by Religion, http://www.nomisweb.co.uk (accessed 3 September 2016).

[56] In 2001 there were 16 ethnic groups (including 4 mixed groups) and 8 religious groups (including "no religion" but excluding "religion not stated"), giving a total of 128 possible ethno-religious groups.

[57] In 2011 there were 18 ethnic groups (including 4 mixed groups) and 8 religious groups (including "no religion" but excluding "religion not stated"), giving a total of 144 possible ethno-religious groups.

[58] M. A. Kevin Brice, "Revising the 'Guestimate': Producing a Robust Estimate for the Number of Converts to Islam in the United Kingdom" (paper presented at Muslims in the UK and Europe Symposium 2015, Centre of Islamic Studies, University of Cambridge, May 29-31, 2015).

[59] According to data available from Office for National Statistics, 2011 Census Microdata Individual Safeguarded Sample (Regional) [computer file]. Colchester, Essex: UK Data Archive [distributor], December 2014. SN: 7605: 10.5255/UKDA-SN-7605-1, 37.6% of White British Muslims are under 16.

[60] Under 16s are initially discounted as there is far less certainty that such individuals have actively self-identified for either ethnicity or religious affiliation. The ethno-religious group recorded for under 16s is more likely to be a reflection of the choices of a parent or guardian.

[61] For example, Sophie Gilliat-Ray, *Muslims in Britain; an introduction* (Cambridge: Cambridge University Press, 2010), 120 and Ceri Peach, "Muslims in the UK", in *Muslim Britain: communities under pressure*, ed. Tahir Abbas (London: Zed Books, 2005), 20

[62] For example, Ceri Peach, "Muslims in the 2001 Census of England and Wales: Gender and economic disadvantage", *Ethnic and Racial Studies*, 29:4, (2006): 632 and Yahya Birt, "Lies! Damn Lies! Statisitics and Conversions," *Q-News*, 350 (2003): 20 and Muhammad Anwar quoted in E. Pinch, "Muslims Proud to be British," *Birmingham Post*, February 5, 2004: 1.

[63] University of Essex. Institute for Social and Economic Research and NatCen Social Research, *Understanding Society: Waves 1-5, 2009-2014* [computer file]. *7th Edition.* Colchester, Essex: UK Data Archive [distributor], November 2015. SN: 6614 doi: 10.5255/UKDA-SN-6614-7.

[64] Kanchan Chandra, C*onstructivist Theories of Ethnic Politics* (Oxford: Oxford University Press, 2012): 19.

[65] Richard Berthoud, "Defining Ethnic Groups: Origin or Identity?" *Patterns of Prejudice*, 32:2, (1998): 54.

[66] Rusi Jaspo and Marco Cinnirealla, "The construction of ethnic identity: Insights from identity process theory," *Ethnicities*, 0 (0), (2012): 1-28.

[67] Office for National Statistics, *Ethnic group statistics: A guide for the collection and classification of ethnicity data* (London: Office for National Statistics, 2003): 26.

[68] See for example: George Yancey, *Who is White? Latinos, Asians and the New Black/Nonblack Divide* (Boulder, CO: Lynne Rienner Publishers, 2003).

[69] A preliminary version of this paper was presented at the 2016 Postgraduate Symposium "Muslims in the UK and Europe" at Cambridge University. I am thankful to the participants of the symposium and to Professor Nadia Fadil, the keynote speaker, for their generous feedback. I would like to express my sincere appreciation to Professor Schirin Amir-Moazami as well as the participants of the 2016 Anthropology of Religion Workshop "In the Wake of the Ethical Turn" at FU Berlin for their constructive criticism and insightful comments on earlier versions of this paper. Finally, I am grateful to Dr. Justyna Alnajjar for her careful reading of my article.

[70] Name changed. The data presented in this paper is part of my ongoing PhD research. As my research is still in progress and located in a field which is under public scrutiny, I have anonymized all the data and cannot disclose any details concerning the date or place of the lectures under investigation. For this paper, I rely on participant observation in the weekly lessons and on videotaped versions of Kadir's lectures.

[71] Yunus Kadir, Mosque lecture (2013). I translated all utterances of the imam from German into English. Thereby, I gave priority to an exact translation rather than idiomatic wording in the English version. I have kept Arabic terms Kadir uses. The transliteration of Arabic terms in this paper follows the IJMES guidelines.

[72] Michel Foucault, *The History of Sexuality, Vol. 2, The Use of Pleasure*, trans. R. Hurley (New York: Pantheon Books, 1985), 28.

[73] Ibid., Vol. 2.

[74] Ibid., 2:28.

[75] E.g. Charles Hirschkind, *The Ethical Soundscape, Cassette Sermons and Islamic Counterpublics* (New York: Columbia University Press, 2006); Jeanette S. Jouili, "Re-Fashioning the Self Through Religious Knowledge, How Muslim Women Become Pious in the German Diaspora," in *Islam and Muslims in Germany*, ed. A. Al-Hamarneh, J. Thielmann (Leiden, Boston: Brill, 2008), 465–488; Idem, "Beyond Emancipation, Subjectivities and Ethics Among Women in Europe's Islamic Revival Communities." *Feminist Review* 98 (2011): 47-64; Saba Mahmood, *Politics of Piety, The Islamic Revival and the Feminist Subject* (Princeton, Oxford: Princeton University Press, 2005). These scholars work with female or male interlocutors only, but do not investigate femininity or masculinity constructions.

76 For example, the tradition-modernity dichotomy informs the theoretical framing of Marcia C. Inhorn and Michael Tunç's works on Muslim masculinities. It is especially problematic considering the discursive power of Orientalist narratives that promote the backwardness and traditionality of Muslim men and masculinities as compared to 'modern' and enlightened 'Western' gender norms, both with regard to Muslim men in Islamic majority contexts and in Western contexts. See Marcia C. Inhorn, *The New Arab Man, Emergent Masculinities, Technologies, and Islam in the Middle East* (Princeton: Princeton University Press, 2012), and Michael Tunç, "'Viele türkische Väter fliehen von zuhause,' Mehrfache ethnische Zugehörigkeiten und Vaterschaft im Spannungsfeld von hegemonialer und progressiver Männlichkeit," in *Mann wird man, Geschlechtliche Identitäten im Spannungsfeld von Migration und Islam*, ed. L. Potts, J. Kühnemund (Bielefeld, Germany: Transcript, 2008), 105–132.

77 In compliance with rules of modest behavior in mixed-gender settings, Kadir used to look over to the girls' side regularly but only cursorily during the lessons. This 'politics of looking' also shaped personal conversations. I noted that in private conversations between the imam and myself both of us actively monitored our gazes and looked into each other's eyes only for very limited periods of time.

78 See Mahmood, *Politics of Piety*, 155.

79 Yunus Kadir, Mosque lecture (2016); idem, Mosque lecture (2014); idem (2013); idem, Mosque lecture (2011).

80 Kadir (2013).

81 Kadir (2013).

82 This, however, is not further defined as a specific community or as the global *umma*. In other instances, Kadir distinguishes between different individuals and groups of Muslims. He does generally not portray Muslims as a monolithic group.

83 Yunus Kadir (2011).

84 This involves a critique of the sexualization of the public sphere and of the objectification of the body, which is raised by feminist authors and Christian circles, too. The lines of argument and the consequences drawn, however, differ. Kadir questions the way the body is objectified in Western societies and criticizes Muslim women who exhibit their bodies "as if [they] were cheap good[s]," see Yunus Kadir (2014). In other instances, however, he objectifies the female body as a sexual stimulus and a wife's body as sexually available to her husband.

85 Kadir (2016); idem (2013).

86 Idem (2013).

87 Ibid.

88 Ibid.

89 Ibid.

90 Ibid.

91 Ibid.

92 Ibid.

[93] Idem (2011).

[94] In this paper, I use the term 'Islamic habitus' and not 'Muslim habitus,' as the latter refers to an ideal which is grounded in principles that Kadir defines as Islamic. I do not refer to the particular habitus of an individual.

[95] Monique Scheer, "Are Emotions a Kind of Practice (and Is That What Makes Them Have a History)? A Bourdieuian Approach to Understanding Emotion," *History and Theory* 51 (2012): 193-220.

[96] Kadir (2013).

[97] Scheer, "Are Emotions a Kind of Practice?", 209.

[98] Responding to Didier Fassin's concern that consequential ethics has been marginalized with the turn from the Kantian approach to the Aristotelian approach to ethics in anthropology, I would suggest that Kadir encourages his audience to undertake an "evaluation of the consequences of what one does or does not do" (Didier Fassin, "The Ethical Turn in Anthropology, Promises and Uncertainties," *HAU: Journal of Ethnographic Theory* 4 Vol. 1 (2014): 429–435; here: 433). Ethics in Kadir's teachings is not only about practice, but (as could be seen above) involves a rational dimension in determining valid moral codes, assessing consequences of different kinds of behavior, and negotiating norms and practice in this way. In my view, reflecting upon consequences of possible acts is inseparable from ethics understood as practice. As for the context under study, I find it difficult to draw a distinction between a way of practicing ethics that is mainly related to the self and to how one's ethical practice brings oneself further for example in relation to God or to a specific norm, and one that takes into account the effects of one's practice on other subjects (thus possibly negotiating behavior according to specific norms out of concern for the social dimension of action). In general, in Kadir's teachings these two dimensions are closely intertwined. The practice required to form a subjectivity in relation to moral codes in Kadir's lectures includes the assessment of the consequences of one's actions.

[99] Whereas in the German translation by Rolfes the term "habitus" is used, Rackham in his English translation uses "dispositions" instead. I follow Rolfes and scholars such as Mahmood who have related to Aristotle's ethical considerations using the term "habitus", cf. Aristoteles, *Nikomachische Ethik*, ed. G. Bien, trans. E. Rolfes, 4th ed. (Hamburg, GER: Felix Meiner, 1985); Aristotle, *Nicomachean Ethics,* trans. H. Rackham (Cambridge, MA: Harvard University Press, 1926); Mahmood, *Politics of Piety*.

[100] Aristotle, *Nicomachean Ethics*, 71.

[101] Ibid., 71.

[102] Ibid., 73.

[103] Ibid., 75. As already noted above, what is translated as "disposition" here is referred to as "habitus" in Rolfes' German translation, see Aristoteles, *Nikomachische Ethik*, 27.

[104] Aristotle, *Nicomachean Ethics*, 79.

[105] Ibid., 79.

[106] Ibid., 83.

[107] Ibid., 79.

[108] Kadir (2013).

[109] Ibid.

[110] Talal Asad, "Remarks on the Anthropology of the Body," in *Religion and the Body, Comparative Perspectives on Devotional Practices*, ed. S. Coakley (Cambridge: University of Cambridge Press, 1997), 42-52, here: 47 f. (emphasis in original).

[111] Mahmood, *Politics of Piety*, 158 (emphasis in original).

[112] Foucault, *History of Sexuality*, 2:28.

[113] Ibid., 27 f.

[114] They also relate to other men and their bodies, which could not be elaborated on in this paper.

[115] Raewyn Connell, *The Men and the Boys* (Cambridge: Polity Press, 2000), 12; idem, *Masculinities*, 2nd ed. (Cambridge: Polity Press, 2005).

[116] Idem, *The Men and the Boys*; idem, *Masculinities*.

[117] Idem, *Masculinities*, 77.

[118] E. g. Inhorn, *The New Arab Man*; Michael Meuser, "Hegemoniale Männlichkeit, Überlegungen zur Leitkategorie der Men's Studies," in *FrauenMännerGeschlechterforschung, State of the Art*, ed. B. Aulenbacher et al. (Münster: Westfälisches Dampfboot, 2006), 160-174.

[119] Kadir (2011).

[120] Whereas in the context of Colonial India the male Indian subjects were discursively effeminized by the British colonial rulers (see Ashis Nandy, *The Intimate Enemy: Loss and Recovery of Self Under Colonialism* (Delhi: Oxford University Press, 1983)) as is the case for the discourse on British Asian masculinities (see Peter Hopkins, "Youthful Muslim Masculinities: Gender and Generational Relations," *Trans Inst Br Geogr* 31 (2006): 337–352), where power operates to subject the racialized selves by rendering them less masculine and less potent. Discursively weakening and feminizing them grants discursive superiority to white, heterosexual 'British' masculinities vis-à-vis the British Asian masculinities and stabilizes the relation of dominance and power. The discourse on Muslim men focusing on violence and patriarchy, which characterizes the German discourse and is also prevalent in the British context (see Hopkins, "Youthful Muslim Masculinities"), portrays Muslim men as hyper-masculine (even more so since the Cologne incidents on New Year's Eve 2015) and thereby works to justify the politicization, securitization, and governance of Muslims, and is used to justify restrictive asylum policies and 'anti-terror' security policies (see also Paul Scheibelhofer, "Integrating the Patriarch? Constructs of Migrant Masculinity in Times of Managing Migration and Integration," in *Contesting Integration, Engendering Migration: Theory and Practice*, ed. F. Anthias, M. Pajnik (Basingstoke: Palgrave, 2013), 185–201; idem, *Integrating the Patriarch? Negotiating Migrant Masculinity in Times of Crisis of Multiculturalism*, Dissertation (Budapest: Central European University, 2014), available from: https://www.academia.edu/7204181/_Integrating_the_Patriarch_Negotiating_Migrant_Masculinity_in_Times_of_Crisis_of_Multiculturalism_PhD_Thesis_Manuscript (accessed 20 June 2016).

[121] See Footnote 30.

[122] Jonathan Laurence, "Managing Transnational Islam: Muslims and the State in Western Europe", in *Immigration and the transformation of Europe,* ed. Craig A. Parsons and Timothy M. Smeeding (Cambridge: Cambridge University Press, 2006), 251–273; idem, "Integrating Islam: a new chapter in 'church-state' relations", The Transatlantic Task Force on Immigration and Integration, Migration Policy Institute/ Bertelsmann Foundation, http://www.migrationpolicy.org/pubs/LaurenceIslamicDialogue100407.pdf (accessed May 4th, 2016); idem, "The Corporatist Antecedent of Contemporary State-Islam Relations" *European Political Science*, 8:3 (2009): 301–315.

[123] Deutsche Islam Konferenz, "Gemeinsames Programm zur Fortfuhrung der Deutschen Islam Konferenz in der 18. Legislaturperiode: Fur einen Dialog auf Augenhohe" *Deutsche Islamkonferenz* (2014), http://www.bmi.bund.de/SharedDocs/Downloads/DE/Nachrichten/Kurzmeldungen/progr11 0 amm-dik.pdf?__blob=publicationFile (accessed July 30th, 2015); all translations from German by the author unless otherwise indicated.

[124] Elisabeth Musch, *Integration durch Konsultation? Konsensbildung in der Migrations- und Integrationspolitik in Deutschland und den Niederlanden* (Munster: Waxmann, 2011), 300.

[125] Winnifred F. Sullivan, *The Impossibility of Religious Freedom* (Princeton: Princeton University Press, 2005); Winnifred F. Sullivan, Robert Yelle and Matteo Taussig-Rubbo, ed., *After Secular Law* (Stanford, Calif.: Stanford Law Books); Hussein A. Agrama, *Questioning Secularism: Islam, Sovereignty, and the Rule of Law in Modern Egypt.* (Chicago, Ill.: University of Chicago Press, 2012).

[126] Gabriele Hermani, *Die Deutsche Islamkonferenz 2006-2009: der Dialogprozess mit den Muslimen in Deutschland im öffentlichen Diskurs* (Berlin: Finckenstein & Salmuth, 2010), 128.

[127] Ibid., 130.

[128] Deutsche Islam Konferenz, "Tagungsband Muslimfeindlichkeit" (2013), http://www.deutsche-islam-konferenz.de/SharedDocs/Anlagen/DIK/DE/Downloads/DokumentePlenum/2013-tagungsband-muslimfeindlichkeit-dik.html?nn=3334656 (accessed December 17th, 2014), 9.

[129] This section draws on the very insightful analysis of the institutional, cognitive and normative context of Islamic umbrella organizations by Kerstin Rosenow-Williams, *Organizing Muslims and Integrating Islam in Germany* (Leiden: Brill, 2012).

[130] German Federal Government, "Coalition Agreement between the CDU, CSU and SPD. Working Together for Germany - With Courage and Compassion" (2005), http://www.bundesregierung.de/Content/EN/Artikel/2004_2007/2006/01/_Anlagen/coalit ion-agreement951220.pdf?__blob=publicationFile&v=1 (accessed July 28th, 2015)

[131] German Federal Government, "Antwort der Bundesregierung auf die Große Anfrage der Abgeordneten Josef Philip Winkler u.a. und der Fraktion BUNDNIS90/Die Grunen" (2006), http://www.bmi.bund.de/cae/servlet/contentblob/150570/publicationFile/13154/Gro_Anfr age_Islam.pdf (accessed July 28th, 2015)

[132] Federal Ministry of the Interior, "Daten und Fakten zum 2. Plenum der Deutschen Islam Konferenz (DIK)" (2007), http://www.bmi.bund.de/SharedDocs/Pressemitteilungen/DE/2007/mitMarginalspalte/05/zweite_islamkonferenz.html (accessed July 28th, 2015).

[133] Federal Ministry of the Interior, "Migration and integration. Residence law and policy on migration and integration in Germany" (2014), https://www.bmi.bund.de/SharedDocs/Downloads/DE/Broschueren/2014/migration_und_integration.pdf?__blob=publicationFile (accessed May 4th, 2016)

[134] German Federal Government, *Coalition Agreement*, 111 ff.

[135] Ibid., 112.

[136] Ibid., 114.

[137] German Federal Government, *Antwort*, 3.

[138] Ibid.

[139] Federal Ministry of the Interior, *Daten und Fakten.*

[140] Federal Office for the Protection of the Constitution, "Islamismus: Entstehung und Erscheinungsformen" (2013), http://www.verfassungsschutz.de/de/download-manager/_broschuere-2013-09-islamismus-entstehung-und-erscheinungsformen.pdf, (accessed July 28th, 2015), 9.

[141] Federal Ministry of Interior, *Daten und Fakten.*

[142] Cf. Agrama, *Questioning Secularism;* Stuart Croft, *Securitizing Islam: identity and the search for security* (Cambridge: Cambridge University Press, 2012); Jocelyne Cesari, "The Securitisation of Islam in Europe," *Challenge liberty and security research paper,* 15 (2009): 1-15.

[143] Federal Ministry of Interior, *Daten und Fakten.*

[144] Rosenow-Williams, *Organizing Muslims*, 156.

[145] Ibid.

[146] Ibid.

[147] Federal Agency for the Protection of the Constitution, *Islamismus: Entstehung und Erscheinungsformen* (Köln, 2013), 21-23; The word "legalistic" has also been used by the Federal Agency for the Protection of the Constitution to justify the observation of the IGMG and to classify it as a threat to the constitution.

[148] Federal Ministry of the Interior, *Migration and integration*, 169.

[149] Ibid.

[150] Rosenow-Williams, *Organizing Muslims*, 158.

[151] Ibid., 159.

[152] Ibid.

[153] German Federal Government, *Antwort*, 3.

[154] Gerdien Jonker, "From 'Foreign Workers' to 'Sleepers': The Churches, the State and Germany's 'discovery' of its Muslim population", in *European Muslims and the Secular State*, ed Jocelyne Cesari and Sean McLoughlin (Aldershot: Ashgate), 113-126.

155  Ibid.

156 Gerdien Jonker, "Muslim Emancipation? Germany's struggle over religious pluralism," in *Religious freedom and the neutrality of the state: the position of Islam in the European Union*, ed Wasif. A. Shadid and P. Sjoerd van Koningsveld (Leuven: Peeters, 2002), 36-51.

157 Rosenow-Williams, *Organizing Muslims*, 160; as of 2014, the parliament has adopted a bill that grants the right to hold two passports under the condition that the person is born after 1990, is born with two passports and has studied six years or lived eight years in Germany. However, after the terrorist attacks in Germany in 2016, leading CDU voices have called for an end to the possibility to have dual citizenship.

158 Heiko Werning, *Protestsoll nicht erfüllt*, taz, 14/01/2015, http://www.taz.de/!5023783/ (accessed August 19th, 2016).

159 Ibid.

160 Andreas Hoidn-Borchers, *Fast mehr Minister als Moslems,* stern.de, 13/01/2016, http://www.stern.de/politik/deutschland/mahnwache-in-berlin—-fast-mehr-minister-als-moslems-3459264.html (accessed August 19th, 2016), Werning also asks the interesting question how Stern and RTL knew the number of Muslims participating in the demonstration and thereby highlights the problematic judgement of "Muslims" according to their outward appearance.

161 Musch, *Integration durch Konsultation?*, 300.

162 Ibid., 291.

163 Heribert Prantl, "Der Islam ist Teil Deutschlands", Interview mit Wolfgang Schäuble, Süddeutsche Zeitung, 26/09/2006, http://www.sueddeutsche.de/politik/interview-der-islam-ist-teil-deutschlands-1.298355 (accessed August 19th, 2016)

164 Ibid.

165 Using the concepts of the securitisation school, one could argue that the German legal and constitutional order is the referent object against which the danger is constructed. Cf. Barry Buzan, Ole Wæver and Jaap de Wilde, *Security: A new Framework for Analysis*, (Boulder, Colo., London: Lynne Rienner).

166 Agrama, *Questioning Secularism.*

167 Musch, *Integration durch Konsultation?*, 155.

168 German Federal Government, *Antwort*, 3.

169 Hermani, *Die Deutsche Islam Konferenz*, 37.

170 German Federal Government, *Antwort,* 10.

171 Prantl, *Der Islam ist Teil Deutschlands.*

172 Winnifred F. Sullivan, "Religious Freedom and the Rule of Law: A Modernist Myth in a Postmodern World?" in *Religion in Cultural Discourse. Essays in the Honor of Hans G. Kippenberg on the Occasion of His 65th Birthday*, ed. Brigitte Luchesi and Kocku von Stuckrad (Berlin, New York: Walter de Gruyter, 2004), 595-614.

173 Feldman, G. (2012) *The Migration Apparatus: Security, Labor, and Policymaking in the European Union.* Standford: Standford University Press.

Shore, C. (2000) *Building Europe. The Cultural Politics of European Integration*. London: Routledge.

[174] Walters, W. (2012): *Governmentality. Critical encounters*. London: Routledge.

[175] Asad, T. (1986): *The Idea of an Anthropology of Islam*, Occasional Paper Series, Center for Contemporary Arab Studies Georgetown University. 14-15.

[176] European Commission homepagehttp://ec.europa.eu/dgs/policy_advisers/archives/activities/dialogue_religions_humanisms/sfe_en.htm (accessed May, 10 2013)

[177] Silvestri, S. (2009): "Islam and religion in the EU political system". In: *Western European Politics*, 32(6). 1218. (Accentuation A.T.)

[178] Noteworthy in this context is the symbolically charged semantic correlation that is being made between the possession of a soul (which is equated to 'spirituality') and the survival of Europe.

[179] Massignon, B. (2007): "Islam in the European Commission's system of regulation of religion". In: Al-Azmeh, A./ Fokas, E. (eds.): *Islam in Europe. Diversity, Identity and Influence.* Cambridge: Cambridge University Press. 128.

[180] Silvestri, S. (2009): "Islam and religion in the EU political system". In: *Western European Politics*, 32(6). 1217-1218.

[181] Fokas, E. (2011): "Islam in Europe: The unexceptional case". In: *Nordic Journal of Religion and Society*, 24(1). 4.

[182] Silvestri, S. (2005): "EU relations with Islam in the context of the EMP's cultural dialogue". In: *Mediterranean Politics*, 10(3). 113.

[183] Runnymede Trust (1997): *Islamophobia: a challenge for us all. Report of the Runnymede Trust Commission on British Muslims and Islamophobia*. London: The Runnymede Trust.

[184] Vakil, A. (2009): "Is the Islam in Islamophobia the Same as the Islam in Anti-Islam; or, When Is It Islamophobia Time?". In: *e-cadernos ace*s [Online], 3. 2009. http://eces.revues.org/178. 75

[185] ARDI. "About Us" http://www.ardi-ep.eu/about/ (accessed July, 21 2016)

[186] Nedergaard, P. / Dagnis Jensen, M. (2014): "The anatomy of Intergroups – network governance in the political engine room of the European Parliament". In: Policy Studies, 35(2). 192.

[187] Karim, S. (2015): European Union must priorities the fight against Islamophobia. Article published on ARDI homepage: http://www.ardi-ep.eu/2015/10/19/european-union-must-prioritise-the-fight-against-islamophobia/ (accessed June, 23 2016)

[188] Ray, E. / Debah, S. (et al.) (2014): Islamophobia in Europe. Description of a Scourge. https://de.scribd.com/document/268234137/IMAN-Report-Islamophobia-in-Europe-English (accessed June, 23 2016)

[189] Ray, E. / Kherigi, I. / Kaaoiss, N. (2014): Iman. The Handbook. Make History. Stop Islamophobia. http://www.femyso.org/publications/2014/IMAN (accessed June, 23 2016)

[190] Hansen, P. (2002): "European Integration, european identity and the colonial connection".

In: European Journal of Social Theory, 5(4). 483-498.

[191]European Parliament
http://www.europarl.europa.eu/RegData/etudes/ATAG/2016/573901/EPRS_ATA(2016)57390
1_EN.pdf (accessed July, 20 2016)

[192] Financial Times (2016): Britain turns its back on Europe. Cameron quits and sterling
plunges after roar of rage from alienated voters. https://www.ft.com/content/e404c2fc-3913-
11e6-9a05-82a9b15a8ee7 (accessed September, 3 2016)

[193] Hall, S. (1991): "Old and New Identities, Old and New Ethnicities". In: Kings, A. (ed.):
Culture, Globalisation and the World System. London: Macmillan. 48-49.

[194] Michael Appleton, 'The Political Attitudes of Muslims Studying at British Universities in
the Post 9/11 World,' *Journal of Muslim Minority Affairs,* 11 (2005): 173

[195] Elizabeth Pooley, 'A New Sisterhood The Allure of ISIS in Syria for Young Muslim Women
in the UK', (Arizona State University May 2015), accessed January 1, 2016
<http://repository.asu.edu/attachments/150544/content/Pooley_asu_0010N_14808.pdf> =

[196] MCB, British Muslims in Numbers: A Demographic Socio-Economic and Health profile of
Muslims in Britain drawing on the 2011 Census, (*Muslim Council of Britain*, January 2015),
accessed 11 September 2015http://www.mcb.org.uk/wp-
content/uploads/2015/02/MCBCensusReport_2015.pdf?

[197] Nafeez Mosaddeq Ahmad, Race and Reform: Islam and Muslims in the British Media, (A
submission to the Leveson Inquiry: The Culture, Practice and Ethics of the Press, July 2012)

[198] Tufayl Choudhury and, Helen Fenwick, 'The impact of counter-terrorism measures on
Muslim communities,' *International Review of Law, Computers & Technology* 25.3 (2011): 85

[199] Damian Thompson, 'Is Britain Hardening its Heart against Muslims?' (*The Spectator*, 6
September 2014), accessed 11 September 2015 http://www.spectator.co.uk/2014/09/is-britain-
hardening-its-heart-against-muslims/

[200] Gordon Brown, 'Seminar on Britishness,' (*British Political Speech,* 27 February 2007),
accessed 11 September 2015 < http://www.britishpoliticalspeech.org/speech-
archive.htm?speech=317>

[201] Varun Uberoi and Tariq Modood, 'Inclusive Britishness: A Multiculturalist Advance,'
[2012] *Political Studies,* 61(1) (2013): 10

[202] For example, Francesco Cavatorta and Fabio Merone. "Moderation through exclusion? The
journey of the Tunisian Ennahda from fundamentalist to conservative party,"
*Democratization* 20 (5) (2013): 857-875.

[203] Soumaya Ghannoushi, "Tunisia is showing the Arab world how to nurture democracy,"
*The Guardian*, 25 October 2014.

[204] For example, Alison Pargeter, *The Muslim Brotherhood: From Opposition to Power*
(London: Saqi Books, 2013); Rachel Linn, *Islamists in the Arab Spring: The Tunisian and
Moroccan Movements' Response to Increasing Pluralism* (unpublished PhD dissertation,
University of Cambridge, 2013).

[205] For example, Carrie Rosefsky Wickham, *The Muslim Brotherhood: Evolution of an Islamist*

*Movement* (Princeton: Princeton University Press, 2013); Alan George, *Syria: Neither Bread nor Freedom* (London: Zed Books, 2003).

[206] For example, Robert S. Leiken, *Europe's Angry Muslims: The Revolt of The Second Generation*, (New York: Oxford University Press, 2012); Fred Halliday, *Arabs in Exile: Yemeni Migrants in Urban Britain*, (London: I.B.Tauris, 1992).

[207] Author interviews with al-Nahda activists.

[208] Author interview with Tariq Ramadan, Oxford, October 2015.

[209] François Burgat, *L'islamisme au Maghreb. La voix du Sud* (Paris: Karthala, 1988).

[210] Author interview with former leader of al-Nahda exiles in France, Tunis, May 2015.

[211] "Final Declaration of the 7th Congress of al-Nahda Movement," signed 3 April 2001 by Rachid Ghannouchi in London (document received via private archives in London; translated from Arabic).

[212] Rachid Ghannouchi, "Comment expliquer la supériorité de l'expérience marocaine sur celle de la Tunisie ?," (www.ezzeitouna.com; October 2002). Quoted in Michel Camau and Vincent Geisser. *Le syndrome autoritaire: Politique en Tunisie de Bourguiba à Ben Ali* (Paris: Presses de Sciences Po, 2003), 313.

[213] Author interview with Jalel Ouerghi, London, March 2015.

[214] Author interview with Lotfi Zitoun, Tunis, May 2015.

[215] Author interview with the wife of a former al-Nahda exile in France, Paris, May 2015.

[216] In March 2004 a law was passed in France that bans 'conspicuous religious symbols', including the headscarf, in public primary and secondary schools. In April 2007 the law was also applied to public service jobs.

[217] Author interview with a former al-Nahda exile in London, London, March 2015.

[218] Author interview with a former al-Nahda exile in London, London, March 2015.

[219] Author interview with a close adviser of Rachid Ghannouchi, Tunis, May 2015.

[220] Author interview with Rachid Ghannouchi, Tunis, June 2015.

[221] Author interview with Rachid Ghannouchi, Tunis, June 2015.

[222] Author interview with former al-Nahda exiles in Paris, May 2015.

[223] Vincent Geisser and Éric Gobe, "Un si long règne…Le régime de Ben Ali vingt ans après," L'Année du Maghreb, 2008, CNRS Éditions, 361.

[224] Abdelmajid Mouslimi, "Le congrès d'Ennahda…Des messages politiques réalistes," *Al-maoukif*, 22 June 2007. Quoted in Vincent Geisser and Éric Gobe, op. cit., 360.

[225] The more common term "polygamy" refers to the general practice of multiple marriages occurring simultaneously. The term "polygyny" is a more accurate term because it refers to the type of polygamy dealt with here, in which a man marries more than one woman simultaneously (as opposed to "polyandry," in which a woman marries more than one man simultaneously). For a detailed analysis of the development of law on polygyny in Muslim-majority countries, see Chapter 7 in Lynn Welchman, *Women and Muslim Family Laws in Arab States : A Comparative Overview of Textual Development and Advocacy.* (Amsterdam, Netherlands: Amsterdam University Press, 2007).

[226] Katharine Charsley and Anika Liversage. "Transforming Polygamy: Migration, Transnationalism and Multiple Marriages among Muslim Minorities," *Global Networks: A Journal of Transnational Affairs* 13, i (2013): 62.

[227] Perminder Khatkar, "The British Muslim Men Who Love 'Both Their Wives,'" *BBC News*, September 26, 2011, http://www.bbc.com/news/uk-15032947.

[228] John Bowen, "How Could English Courts Recognize Shariah?" 7 *U. St. Thomas L.J.* (2010): 412.

[229] Samia Bano, "Muslim Family Justice and Human Rights: The Experience of British Muslim Women," *Journal of Comparative Law* 2 (2007): 45.

[230] Prakash Shah, "Attitudes to Polygamy in English Law," *The International and Comparative Law Quarterly* (2003): 70.

[231] Vishal Vora, "Unregistered Muslim Marriages in England and Wales: The issue of Discrimination through 'Non-Marriage' Declarations," *Muslims in the UK and Europe, Centre of Islamic Studies, U. of Cambridge* II (2016): 134.

[232] *Offenses Against the Person Act 1861* s 57.

[233] Ralph Grillo, *Muslim Families, Politics and the Law: A Legal Industry in Multicultural Britain,* (Surrey, England: Ashgate, 2015), 41.

[234] Ian Edge, "Islamic Law in English Courts: Recognition of Foreign Marriages" *Family Law* (2016): 103.

[235] Lisa Pilgram, "Responses to Muslim Law in the UK: From Ethno-Religious Sensitivity to 'Supplementary Jurisdictions,'" in *Migration and Integration 2* eds. Gudrun Biffl and Lydia Rössl, (Germany, Omnium KG, 2011), 109.

[236] *Marriage Act 1949*, 12, 13, and 14 Geo 6 ch 76.

[237] *Children Act Schedule 1 1989* "Financial Provisions for Children" ch 41.

[238] Averroës, "The Book of *Nikah*" in *The Distinguished Primer,* trans. Muhammad Abdul-Rauf and Imran Ahsan Khan Nyazee, Vol. II. (Garnet Publishing, 1996), 3, 20.

[239] Ibid., 12, 19.

[240] Doreen Hinchcliffe, "Polygamy in Traditional and Contemporary Islamic Law," *Islam and the Modern Age* I, (1970): 13.

[241] Ibid.

[242] Charsley and Liversage, "Transforming Polygamy," 62.

[243] Quran 4:129, trans. MAS Abdel Haleem.

[244] Quran 4:3, trans. MAS Abdel Haleem.

[245] Hinchcliffe, "Polygamy in Traditional and Contemporary Islamic Law," 13-15.

[246] *Marriage Act 1949* s 53.

[247] *Matrimonial and Family Proceedings Act 1984* Part III.

[248] But see *MA v JA* [2012] EWHC 2219, finding that although a marriage ceremony in an authorized mosque did not follow the requirements of the Marriage Act 1949 and did not qualify for a presumption of marriage, a marriage was created because it was of the kind contemplated by the Marriage Act and was conducted in an authorized building by an authorized person.

[249] Mona Siddiqui, "Mahr: Legal Obligation or Rightful Demand?" *Journal of Islamic Studies*, 6:1 (1995): 14, 20.

[250] *Shahnaz v Rizwan* [1965] 1 Q.B. 390, 401. See also, Mohamed Jindani, "The Concept of Mahr (Dower) in Islamic Law: The Need of Statutory Recognition by English Law," *Yearbook of Islamic and Middle Eastern Law*, (2004): 222.

[251] Grillo, *Muslim Families,* 109.

[252] *Shahnaz v Rizwan*, 402.

[253] *Qureshi v Qureshi* [1972] Fam. 173, 181.

[254] Ibid., 173.

[255] Ibid., 174.

[256] Ibid., 201.

[257] Pilgram, "Responses to Muslim Law," 110.

[258] *Uddin v Choudhury* 2009 EWCA Civ 1205, 1.

[259] Ibid., 2.

[260] Ibid., 5.

[261] John Bowen, "English Courts Recognize Shariah?," 424.

[262] Pilgram, "Responses to Muslim Law," 110.

[263] Pilgram, "Responses to Muslim Law," 110.

[264] Pilgram, "Responses to Muslim Law," 111.

[265] Werner Menski, "Immigration and Multiculturalism in Britain: New Issues in Research Policy," *KIAPS: Bulletin of Asia-Pacific Studies XII* (2002): 8.

[266] Grillo, *Muslim Families,* 264.

[267] *A-M v A-M* [2001] 2 FLR 6.

[268] Valentine Le Grice, "A Critique of Non-Marriage" *Family Law* (2013): 1278.

[269] Le Grice, "Non-Marriage," 1278.

[270] Le Grice, "Non-Marriage," 1278.

[271] See *Hudson v Leigh* [2013] 2 WLR 632, 81 (finding that ceremonies are addressed on a case by case basis); see also *El Gamal v Al-maktoum* [2012] 2 FLR 387, 86 (finding that the intention is relevant).

[272] *Chief Adjudication Officer v Kirpal Kaur Bath*, [2000] 1 FLR 8, 15.

[273] Ibid., 36.

[274] Ibid., 31.

[275] *A-M v A-M,* 8.

[276] *Hudson v Leigh*, 32.

[277] Ibid., 32, 72.

[278] Ibid., 7.

[279] *Gereis v Yagoub* [1997] 1 FLR 854, 858.

[280] *Hyde v Hyde and Woodmansee* [1866] 1 LR P & D 130, 130.

[281] *Dukali v Lamrani* [2012] 2 FLR 1099, 11

[282] Ibid., 7

[283] Ibid., 36.

[284] Ibid., 33.

[285] Ibid., 47

[286] Ibid., 43.

[287] Ibid., 48.

[288] Vishal Vora, "The Problem of Unregistered Muslim Marriage: Questions and Solutions" Family Law (2016).

[289] LeGrice, "Non-Marriage," 1278.

[290] LeGrice, "Non-Marriage," 1285.

[291] Janice Elliott Montague, "To Say 'I Do' or Not…The Legal Implications of Life Style Choices," *Coventry Law Journal,* 16(1) (2011): 43.

[292] Ibid., 43.

[293] Grillo, *Muslim Families,* 43.

[294] Grillo, *Muslim Families*, 227.

[295] Grillo, *Muslim Families*, 235.

[296] Grillo, *Muslim Families*, 15-17.

[297] Grillo, *Muslim Families*, 47.

[298] Vishal Vora, "Unregistered Marriage."

[299] "Jemima Khan and the Part-Time Wife," *BBC Radio 4*, April 29, 2013, http://www.bbc.co.uk/programmes/b01s46rr.

[300] "Cohabitation Rights Bill [HL] 2015-16" (The bill has been proposed and was last read in the House of Lords on June 4, 2015. The second reading and debate is yet to be scheduled.) http://services.parliament.uk/bills/2015-16/cohabitationrights.html (accessed 29 April 2016).

[301] See *Jones v Kernott*, [2011] 3 FCR 495, (holding that under the Trust of Land and Appointment of Trustees Act 1996, where a property was bought in joint names of a cohabiting couple, there is a presumption that the beneficial interests coincide with the legal estate, but this presumption may be rebutted by evidence of a contrary intention).

[302] Montague, "To Say 'I Do' or Not," 45.

[303] The full text of this speech was published afterwards, see Rowan Williams, "Civil and Religious Law in England: A Religious Perspective," *Ecclesiastical Law Journal* 10 (2008): 262-282.

[304] BBC News UK, "Sharia law in UK is 'unavoidable'," *BBC News*, 7 February 2008, http://news.bbc.co.uk/2/hi/uk/7232661.stm.

[305] This was a headline used by the BBC for reactions on William's speech, but was quoted by many others. See BBC News UK, "Reaction in quotes: Sharia law row," *BBC News*, 8 February 2008, http://news.bbc.co.uk/2/hi/uk_news/7234422.stm.

[306] So to be found in German newspapers, e.g. Alexei Makartsev, „Hunderte Schiedsgerichte auf der Insel: Scharia-Justiz erobert Großbritannien," *RP Online*, 1 January 2012, http://www.rp-online.de/politik/ausland/scharia-justiz-erobert-grossbritannien-aid-1.2638409.

[307] Williams, "Civil and Religious Law," 274.

[308] The statement of Lord Phillips can be seen on BBC News, "Top judge backs sharia ‚role'," *BBC News UK*, 4 July 2008, http://news.bbc.co.uk/2/hi/uk_news/7488960.stm.

[309] This term is used by the media, never by the institutions in question. It suggests court authority, which they do not have, and furthermore fails to differentiate between sharia councils and MAT – there being a difference in terms of which mechanisms of dispute resolution the institutions can and do execute. This fact is widely ignored by the media.

[310] I was allowed to witness cases at the Sharee Council Dewsbury and at the Family Support Service as well as the sharia council of Birmingham Central Mosque. The Islamic Sharia Council allowed access to client hearings but not panel meetings.

[311] The Muslim Law (Shariah) Council allowed insight into a number of case files, other sharia councils provided very few or no case files.

[312] See Samia Bano, "Complexity, difference and ‚Muslim personal law': Rethinking the relationship between sharia councils and South Asian Muslim Women in Britain" (PhD diss., University of Warwick, 2004), 117.

[313] Number estimated by Civitas. See Denis MacEoin, "Sharia Law or 'One Law For All?'" (London: Civitas, Institute for the Study of Civil Society, 2009), http://www.civitas.org.uk/publications/sharia-law-or-one-law-for-all/ (accessed 18 April 2016), 69.

[314] Ibid., 69.

[315] Maulana Osman Sheikh, oral interview, 26 September 2012.

[316] The sharia councils most widely known are: The Islamic Sharia Council (London), The Muslim Law (Shariah) Council (London), the Sharee Council Dewsbury and the sharia council at Birmingham Central Mosque. The number of smaller sharia councils is given to the best of my knowledge and includes the Sharia Department at Manchester Islamic Centre and Didsbury Mosque, the London Fatwa Council, the Islamic divorce service carried out by ISSA Wales, the Fiqh Council in Birmingham, Bristol Centre for Islamic Studies and Sharia Council and the newly formed Wuzara Ulama Council UK.

[317] A substantial part of the divorce applications sharia councils receive are by women who got married in an English mosque without registering the marriage through a registrar. According to English law, such couples count as cohabitees, lacking the rights spouses would

have upon marital breakdown. If in such a case the husband refuses to divorce his wife religiously, she would usually address an Islamic court to obtain the dissolution of her marriage. In absence of Islamic courts in the UK, sharia councils forming panels of Islamic scholars have taken on this duty.

[318] Such questions can be: whether an Islamic marriage performed or a divorce pronounced by the husband is valid; whether it is allowed to effect an insurance or take out a loan in order to buy a house; questions on Islamic banking products, etc. Examples of questions asked by clients at the Islamic Sharia Council, witnessed during three visits on 20 March 2014, 3 and 7 April 2014.

[319] Ministry of Justice, "Practice Direction – Pre-Action Conduct and Protocols," https://www.justice.gov.uk/courts/procedure-rules/civil/rules/pd_pre-action_conduct#8.1 (updated 28 July 2015), No. 8.

[320] Ministry of Justice, "Practice Direction 3A – Family Mediation Information and Assessment Meetings (MIAMS)," https://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_03a#para3 (updated 18 November 2015), No. 3.

[321] Ibid., No. 9.

[322] Ministry of Justice, "Practice Direction – Pre-Action," No. 10.

[323] Qur an 4, 35. See Ann Black, Hossein Esmaeili and Nadirsyah Hosen, *Modern Perspectives on Islamic Law* (Cheltenham & Northampton (Mass.): Edward Elgar, 2013), 160-164.

[324] This interpretation is generally derived from Qur an 4, 128. See Black, Esmaeili and Hosen, *Modern Perspectives*, 156-160.

[325] This concept known in classical Islamic law is called *tafwīḍ al-ṭalāq*. For further information see Asghar Ali Engineer, *The Rights of Women in Islam* (London: C. Hurst & Company, 1992), 139 f. or more specifically Fareeha Khan, "Tafwīḍ al-Ṭalāq: Transferring the Right to Divorce to the Wife," *Muslim World* 99 (2009): 502-520.

[326] In only one of the cases witnessed at sharia councils the wife's father had organised for that clause to appear in his daughter's marriage contract. She was told by the sharia council that she could sign a document stating that she would now use this right. Case witnessed at the Islamic Sharia Council, 7 April 2014.

[327] A Muslim marriage contracted in a country where this is the valid legal form of marriage, such as Pakistan or Bangladesh, is recognised as a valid marriage in the UK. Upon entering the UK, e.g. to join a spouse there, the marriage will be on records. See GOV.UK, "Marriage," https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/268020/marriage.pdf (accessed 2 September 2016), No. 2. Many people to whom this applies are not aware of the fact, therefore sharia councils have to explain very often, that they cannot dissolve these marriages to any legal effect but only religiously. Several cases witnessed, e.g. one case at the Islamic Sharia Council, 7 April 2014.

[328] See Emile Tyan, "'Adl," in *Encyclopaedia of Islam*, 2nd ed., vol. 1, ed. Bearman, P. et. al. (Leiden: Brill, 1965), 209 f.; 209.

[329] This evaluation should ideally happen in the presence of both parties but does in fact more

often take place separately. All sharia councils say they accept separate meetings if required by the parties, e.g. according to a restraining order. Of all the sharia council sessions I have witnessed, not one was held as a joint meeting of the spouses.

[330] Qur an 4, 35.

[331] Statement by Khola Hasan (Islamic Sharia Council), oral interview, 20 March 2014.

[332] Information given by Shahid Raza (Muslim Law (Shariah) Council), oral interview, 13 March 2014 and by Saba Butt (Family Support Service, Birmingham Central Mosque), oral interview, 31 October 2015. The question whether there is, from the point of view of the applicant, a chance for reconciliation is really one of the first to be asked when clients approach the Family Support Service at Birmingham Central Mosque. So if a case is brought to the sharia council there, it is usually clear that there is no way to save the marriage. All cases witnessed at this sharia council on 14 and 15 April 2014 were dissolved on the spot.

[333] Shahid Raza (Muslim Law (Shariah) Council), oral interview, 13 March 2014. The Islamic Sharia Council calls the process "mediation" or "(marriage) counselling". Khola Hasan (Islamic Sharia Council), oral interview, 20 March 2014; Islamic Sharia Council, "Counselling," http://www.islamic-sharia.org/counselling/ (accessed 26 August 2016).

[334] Qur an 4, 35.

[335] Members of different sharia councils said they would try to help clients analyse how they could make their relationship work in order to remain married to each other. The Family Support Service at Birmingham Central Mosque, e.g., admitted that their resources in this respect were limited but that they would – if wanted by the clients – try to show them different options on how to proceed with their relationship. Saba Butt (Family Support Service, Birmingham Central Mosque), oral interview, 31 October 2015.

[336] Oral information given by a female client of the Islamic Sharia Council, 14 April 2014.

[337] Ministry of Justice, "Practice Direction – Pre-Action," No. 10 (c).

[338] E.g. stated by the Sharee Council Dewsbury in its "Code of Practice", handed to the parties as a leaflet and published online: "Issues Relating to Children: The Shariah ruling is that until the child has reached maturity, he or she is to stay with the mother, however, the father has every right to visit his child, and the mother must not deny access unless there is a Court order in place. Furthermore, the maintenance of the child/children is upon the father." See Sharee Council Dewsbury, "Sharee Council – Code of Practice," http://www.shareecouncil.org/index.php/sharee-council-code-of-practice (accessed 30 August 2016).

[339] See GOV.UK, "Arranging child maintenance yourself," https://www.gov.uk/arranging-child-maintenance-yourself (accessed 22 April 2016). E.g. stated by the Islamic Sharia Council on its Blog: Islamic Sharia Council Blog, "Response Regarding Panorama," http://blog.islamic-sharia.org/hello-world/ (updated 11 May 2013). The Sharee Council Dewsbury adds this to its information about the Islamic position on child custody: "The SC does not deal with issues regarding access to children and the parties are advised to refer the matter to the courts." See Sharee Council Dewsbury, "Code of Practice."

[340] See Chafik Chehata, "Faskh," in *Encyclopaedia of Islam*, 2nd ed., vol. 2, ed. Bearman, P. et al. (Leiden: Brill, 1965), 836.

[341] Thus stated by Shahid Raza (Muslim Law (Shariah) Council), oral interview, 13 March 2014. The same applies to the Muslim Arbitration Tribunal. Faizul Aqtab Siddiqi (Muslim Arbitration Tribunal), oral interview, 20 September 2012.

[342] "Any decision taken by SC will be made in light of Qur'an and Sunnah (…)." See Sharee Council Dewsbury, "Code of Practice." Similar statement made by Khola Hasan (Islamic Sharia Council), oral interview, 20 March 2014.

[343] See Dawoud El Alami and Doreen Hinchcliffe, *Islamic Marriage and Divorce Laws of the Arab World* (London: Kluwer Law International, 1996), 29-32. For the Shafiʿi school also see Mohamed Suleiman Mraja, *Impacts on Marriage and Divorce among the Digo of Southern Kenya* (Würzburg: Ergon, 2007), 145-148.

[344] The vast majority (42%) of Muslims in England count themselves as "Pakistani/British Pakistani" followed by "Bangladeshi/British Bangladeshi" (15%), "African" (8%) and "Indian/British Indian" (7%). Proportions derived from the 2011 Census. Office for National Statistics, "CT0575 2011 Census – Ethnic group (write-in response) by religion – England," https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity/adhocs/005528ct05752011censusethnicgroupwriteinresponsebyreligionengland (updated 30 March 2016).

[345] Sarah Ansari, "Pākistān," in *Encyclopaedia of Islam*, 2nd ed., vol. 8, ed. Bearman, P. et al. (Leiden: Brill, 1995), 240-244; 241.

[346] Keith Hodkinson, *Muslim Family Law: A Sourcebook* (London & Canberra: Croom Helm, 1984), 224.

[347] Information given by the members of the sharia council at Birmingham Central Mosque and witnessed in several cases, 14 and 15 April 2014.

[348] El Alami and Hinchcliffe, *Islamic Marriage*, 28.

[349] For recent analyses of the concept see Black, Esmaeili and Hosen, *Modern Perspectives*, 164-166; Ihsan Yilmaz, "Muslim Alternative Dispute Resolution and Neo-Ijtihad in England," *Alternatives* 91 (2003): 117-139; 124.

[350] "Muslim Arbitration Tribunal" is used in singular here as is done on MAT's website. The chairman explained that there are 11 tribunals, however, some of which are permanent and others set up temporarily. Faizul Aqtab Siddiqi (Muslim Arbitration Tribunal), oral interview, 20 September 2012.

[351] This has not yet happened though, MAT says. Faizul Aqtab Siddiqi (Muslim Arbitration Tribunal), oral interview, 20 September 2012.

[352] Such "matrimonial issues" include disputes concerning the dowry or forced marriage cases. The number of cases per month (30-60) and the proportions mentioned were estimated by Faizul Aqtab Siddiqi, chairman of MAT. Faizul Aqtab Siddiqi (Muslim Arbitration Tribunal), oral interview, 3 November 2015.

[353] Ibid.

354 Muslim Arbitration Tribunal, "Islamic Divorce & Family Disputes,"
http://www.matribunal.com/family-dispute-cases.php (accessed 22 April 2016).

355 Description by Faizul Aqtab Siddiqi (Muslim Arbitration Tribunal), oral interview, 3
November 2015.

356 Mediators must be authorised by the Family Mediation Council to perform MIAMs. None
of the Islamic institutions is listed as such. Family Mediation Council, "Find your local
mediator," http://www.familymediationcouncil.org.uk/find-local-mediator/ (accessed 22
April 2016).

357 Ministry of Justice, "Part 3 – Non-court Dispute Resolution,"
https://www.justice.gov.uk/courts/procedure-rules/family/parts/part_03 (updated
18 November 2015), No. 3.8.

358 Ibid, No. 3.8.

359 Muslim Arbitration Tribunal, "Islamic Divorce & Family Disputes."

360 Statements by Faizul Aqtab Siddiqi (Muslim Arbitration Tribunal), oral interviews,
20 September 2012 and 3 November 2015.

361 Faizul Aqtab Siddiqi (Muslim Arbitration Tribunal), oral interview, 20 September 2012.

362 E.g. stated by the Sharee Council Dewsbury: "Abuse and threats shall be reported to the
police." Sharee Council Dewsbury, "Code of Practice." The application form was recently
changed and now asks clients whether there is a restraining order or non-molestation order
in place, to assure that clients will not meet at the Sharee Council but be invited to separate
appointments. See Sharee Council Dewsbury, "How to apply,"
http://www.shareecouncil.org/index.php/apply-online (accessed 30 August 2016).

363 The Islamic Sharia Council published some statistics on its website stating that out of 700
applications received in 2010, 199 stated domestic violence as a main reason for divorce.
Islamic Sharia Council, "Statistics," http://www.islamic-sharia.org/statistics/ (accessed 22
April 2016).

364 E.g. Jane Corbin, "Are Sharia councils failing vulnerable women?," *BBC Panorama*,
http://www.bbc.com/news/uk-22044724 (updated 7 April 2013).

365 Mohammed Ejaz (Sharee Council Dewsbury), oral interview, 27 October 2013.

366 Information given by a number of clients can be found in Samia Bano, *Muslim Women and
Shari'ah Councils: Transcending the Boundaries of Community and Law* (Houndmills: Palgrave
Macmillan, 2012).

367 Edward E Curtis, IV, ed. *Encyclopedia of Muslim-American History, 2-Volume Set*(New York:
Checkmark Books, 2010).

368 Tariq Ramadan, *Western Muslims and the Future of Islam*(Oxford University Press, 2004).

369 Judith E. Tucker, *Women, Family, and Gender in Islamic Law*, 1 edition ed.(Cambridge, UK;
New York: Cambridge University Press, 2008).

370 Sophie Gilliat-Ray, *Muslims in Britain*(Cambridge; New York: Cambridge University Press,
2010).

371 Quran 23:5-7

[372] Elizabeth Butler-Sloss and Mark Hill, "Family Law: Current Conflicts and Their Resolution," in *Islam and English Law: Rights, Responsibilities, and the Place of Shari'a* ed. Robin Griffith-Jones(Cambridge [UK]: New York: Cambridge University Press, 2013).

[373] Ihsan Yilmaz, "The Challenge of Post-Modern Legality and Muslim Legal Pluralism in England," *Journal of Ethnic and Migration Studies* 28, no. 2 (2002).

[374] Rebecca Probert, "Evolving Concept of Non-Marriage, The," *Child and Family Law Quarterly* 25(2013).

[375] Gillian Douglas et al., "The Role of Religious Tribunals in Regulating Marriage and Divorce," ibid.24(2)(2012).

[376] Sara Khan, "Muslim Marriages Like George Galloway's Should Be Registered," *The Guardian*, 2012-05-04T08:00BST 2012.

[377] Jocelyne Cesari, *Muslims in the West after 9/11: Religion, Politics and Law*, 1 edition ed.(London; New York: Routledge, 2009).

[378] Maleiha Malik, "Minority Legal Orders in the Uk: Minorities, Pluralism and the Law,"(British Academy, 2012).

[379] Mathias Rohe, "Shariah in Europe," in *The Oxford Handbook of European Islam*, ed. Jocelyne Cesari(New York, NY: OUP Oxford, 2014).

[380] Anna C Korteweg and Jennifer A Selby, eds., *Debating Sharia: Islam, Gender Politics, and Family Law Arbitration*(Toronto, Ont.; Buffalo [NY]: University of Toronto Press, 2012).

[381] Jemma Wilson, "Sharia Debate in Britain: Sharia Councils and the Oppression of Muslim Women, The," *Aberdeen Student Law Review* 1(2010).

[382] Yilmaz, "The Challenge of Post-Modern Legality and Muslim Legal Pluralism in England."

[383] Samia Bano, *Muslim Women and Shari'ah Councils: Transcending the Boundaries of Community and Law*(Palgrave Macmillan, 2012).

[384] Malik, "Minority Legal Orders in the Uk: Minorities, Pluralism and the Law."

[385] Ihsan Yilmaz, "Muslim Law in Britain: Reflections in the Socio-Legal Sphere and Differential Legal Treatment," (2000).

[386] Carol Grbich, *Qualitative Data Analysis: An Introduction*, Second Edition ed.(London; Thousand Oaks, Calif: SAGE Publications Ltd, 2013).

[387] Glynis M. Breakwell et al., *Research Methods in Psychology* (SAGE, 2006).

[388] Sonia Nurin Shah-Kazemi, "Untying the Knot: Muslim Women, Divorce and the Shariah," in *The Nuffield Foundation*(2001).

[389] Michael Quinn Patton, *Qualitative Research & Evaluation Methods: Integrating Theory and Practice*(SAGE Publications, 2014).

[390] Ranjit Kumar, *Research Methodology: A Step-by-Step Guide for Beginners*, Fourth Edition ed. (Thousand Oaks, CA: SAGE Publications Ltd, 2014).

[391] William Trochim, James Donnelly, and Kanika Arora, *Research Methods: The Essential Knowledge Base* (Cengage Learning, 2015).