

Loyalty, Locality and Authority in Several Opinions (Fatāwā) Delivered by the Muftī of the Jami'ah Nizāmiyyah Madrasah, Hyderabad, India

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Source: *Modern Asian Studies*, Vol. 29, No. 4 (Oct., 1995), pp. 893-927

Published by: [Cambridge University Press](#)

Stable URL: <http://www.jstor.org/stable/312809>

Accessed: 30/03/2011 21:13

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*Loyalty, Locality and Authority in Several
Opinions (Fatāwā) Delivered by the Muftī of
the Jami‘ah Nizāmiyyah Madrasah,
Hyderabad, India*

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During an evening's conversation in September of 1989 in Hyderabad, two educated men: one a retired professor of economics, the other a civil servant whose avocation was lexicography, entered into a spirited and lengthy debate over the proper way of translating 'fundamentalist' into Urdu. The lexicographer argued that '*bunyād-parašt* (lit: one who loves the basics)' was the most accurate as it conveyed not only the English meaning, but also the reality of what a fundamentalist Muslim believed. In opposition, the economist held that '*mullah-yī* (lit: like a *mullah*)' was culturally more correct. The

Acknowledgements

Many people supported the research which went into this paper. The learned and holy men of the Jamiah Nizamiyyah deserve special thanks for their patience, candor and hospitality: the Shaykh ul-Jamiah, Mawlana Sayyid Tahir Razari Qadri, as well as Mawlana Khalil Ahmad, Hafiz Muhammad Abdullah Quraishi Azhari and Muhammad Abd ul-Jalil. Shaykh Sufi Sabri Ali Abul Ulayi led me through the gates of the Jamiah and taught me something about the history of sufism in Hyderabad. Dr Abd ur-Rahman acted as my research associate and, when my own Urdu failed, translator. Dr Hasan ud-din Ahmad introduced me to Hyderabad, made me welcome in his home and took time out from his own scholarly pursuits to give me hours of stimulating conversation. Pirsahib Sayyid Muhammad Tanwir ud-din provided many insights into the religious life of Muslims in Hyderabad. Many other Hyderabadis, who can not be individually named here, were kind to the stranger in their midst.

On the material side, grants from the Joint Committee on the Comparative Study of Muslim Societies of the Social Science Research Council and DePaul University's Research Council provided the wherewithal for travel and leave from teaching. The ever-competent Dr Marjorie Piechowski, DePaul's director of Sponsored Programs, was especially helpful in making the financial arrangements which made it possible for me to accept a grant while still being able to feed, clothe and house my wife and children. The latter, who made do without me in a time of great sorrow, cannot be thanked or consoled enough.

'foundation' implied by *bunyad*¹ was not specifically religious. It could apply to the fundamentals of anything: grammar, for example. In addition, he argued that what fundamentalists really did was to dress, act and talk like mullahs. In a sense, both were correct, because each was struggling over the transfer of a notion alien to traditional Islam into the vocabulary of a living language through which Muslims interact.

The economist and the dictionary-maker held their discussion in a global as well as local context in which words like fundamentalist had more than lexical significance. Since the Iranian Revolution, at least, both Muslims and non-Muslims have reacted in widely divergent ways to Islamic revival.² Those who are attracted to a fundamentalist vision as well as those repelled by it seem agreed on the proposition that the Holy Law (*shari'ah*) must be central to truly Islamic reform. The corollaries of that view are obvious: in nations where Muslims are the majority, shariah ought to be the law of the land. In places like India where Muslims form a minority, it must be preserved and protected as a distinct code of personal law.

In India, a number of public disputes have made Muslim law a front page issue and provided ample opportunity for its defenders and critics to publicize their opinions. A confrontation in Ayodhya over a mosque supposedly built in the time of the Mughal emperor Zahir ud-din Babar (c. 1527) on the site of a temple marking the birthplace of the Hindu god Rama has prompted a bitter, ongoing struggle involving bricks as well as words.³

Shah Banu's case, which arose over a government court's awarding of alimony to a divorced Muslim woman (a remedy not provided for

¹ Full diacritical marks, including *'ayn* and *hamzah*, will be provided only at a word's first occurrence. With apologies to Arabists, I have chosen a system of transliteration which reflects Urdu pronunciations of Arabic words. With the single modification of using 'w' for *'wāw*, instead of 'v,' I have employed the Library of Congress system. In the interest of simplicity, I have not used diacriticals or orthographic transliterations of personal names. With these, I have only aimed at consistency and the representation of their actual pronunciation.

² Terms like 'fundamentalist,' 'reformist,' 'revivalist' and the rest occur so regularly and with so little precision that they may be next to useless as analytical categories. Scholars are saddled with them, however, until some superior terminology appears. For attempts, not entirely successful, to modify or avoid them, see, O. Roy, *Islam and Resistance in Afghanistan*, 2nd edn (Cambridge: Cambridge University Press, 1990) and J. Vatin, 'Seduction and Sedition,' *Islam and the Political Economy of Meaning*, W. Roff (ed.) (Berkeley: University of California Press, 1987), 160-79.

³ S. Shrivastava, *The Disputed Mosque: A Historical Inquiry* (New Delhi: Vistaar Publications, 1991) and *Babri Masjid Ramjanambhoomi Controversy*, A. Engineer (ed.) (Delhi: Ajanta, 1990).

in shariah), enabled critics to excoriate Islam for its mistreatment of women at the same time it gave defenders the chance to defend the faith's enhancement of women's rights.⁴ Finally, in the same month in which the conversation on fundamentalism mentioned above took place, a Hyderabadī religious scholar published a formal opinion: *fatwā*, which asserted that Muslims could accept interest on bank deposits without fear of violating the shariah's prohibition of usury, thus sparking a verbal battle in the city's newspapers.⁵

Modern media have made it possible for religious scholars (*'ulamā'*) to disseminate their fatawa (pl. of fatwa) quickly over a wide area and among people of all social orders. It has not, however, brought uniformity to the opinions of the ulama. Newspapers, radio and television extended the realms of conflict. They have made it possible for educated laymen to express their own ideas and voice their criticisms of religious scholars.

Highly publicized rows or headlines involving 'fundamentalists' can grab the interest of large numbers of people. They can highlight both cohesion and dissension among Muslims. Since they are comparatively rare, they are probably not, however, the best place to attempt to comprehend the internal dynamics of a Muslim community's day-to-day existence. Though of diminished scale, the events of everyday life: a troublesome spouse or the division of an estate, are quite as complicated, perhaps more personally riveting, than the great causes which interest those who think they are shaping history together with the scholars and journalists who believe they chronicle the shapers' successes and failures. Humans may debate with more passion the question of who is at fault in a divorce or who has gotten the advantage in an inheritance than the merits or demerits of fundamentalism.

Islamic law, as this enters the discourse of scholars, is usually one of those grand issues: a key to understanding the essence of Islam or the nature of Muslim societies. It is a matter of principle, an abstraction which provides insight into more abstractions. Yet, in the ordinary course of life, shariah through its application in fatawa involves individuals rather than ideologies. The majority of scholars' opinions concern themselves with matters restricted by the questions posed to them by ordinary believers.

⁴ G. Kozlowski, 'Shah Banu's Case, Britain's Legal Legacy and Muslim Politics in Modern India,' in *Law and Society in India*, Y. Malik and D. Vajpeyi (eds) (Delhi: Chanakya, 1990), 88–111.

⁵ For example, *Siyāsat*, September 10, 1989 and *Rahnāmah-yī Dakkhan*, September 9, 1989.

In published collections of fatawa, an outsized portion of the queries and replies deal with ritual matters such as the etiquette of prayer or the pilgrimage and ritual pollution.⁶ Many of the problems addressed seem to be purely hypothetical, designed as much to display a scholar's forensic skill and learning as to resolve some genuine dilemma. By contrast, the individuals who petitioned the *mufti* described later in this essay usually had some practical quandary in hand. When asked to describe the most frequent kinds of issues raised before him, the mufti responded, 'marital relations and inheritance.'

One of the most basic meanings of the word shariah is 'the path' and fatwa derives from a verb meaning 'to inform.' That individuals should seek a path through the tangles generated by the possession and transmission of property or the cohabitation of males and females is hardly surprising. Even so, the petitioners and the mufti may have different expectations which need to be explicated. While a mufti might assert that his clients come because they are pious Muslims seeking to 'do the good and avoid the evil,' he must also be aware that those who seek his counsel might be selfish, malicious and in hope that he will be partial to them instead of interested only in the exposition of 'the straight path.' Both suppliant and scholar also have some sense that every difficulty arises in a social setting and finds its resolution or continuation in society.

In its approach to mundane conflicts, *fiqh* (the term used to describe the application of the standards of shariah to the behavior of individuals) operates more as a guide to conscience than as law as that developed in Euro-American history.⁷ For example, the character of the latter systems of law was shaped by emerging nation-states. The creation of centralized, bureaucratic governments restricted the number of rules applicable to individuals living within their borders. At the same time, those modern states created judicial hierarchies which connected local courts to regional and national tribunals. While shariah does have rules, many of them are by their nature unenforceable. Disputes about others were frequent and since scholars treated each case individually their application was not uniform.⁸

⁶ For example, *Fatāwā-yī Deoband*, 10 vols (Deoband: *Dār 'ul 'Ulūm*, 1968).

⁷ G. Kozlowski, 'When the "Way" Becomes the "Law,"' *Studies in Islamic and Judaic Traditions*, II, W. Brinner and S. Ricks, (eds) (Decatur, Ga.: Scholar's Press, 1989), 97-112.

⁸ G. Kozlowski, *Muslim Endowments and Society in British India*, (Cambridge: Cambridge University Press, 1985), 96-155.

The ulama who became the custodians of shariah and who provided the opinions by which it was applied to particular situations were often in tension with those who ruled the states of the Muslim world.⁹ Even those scholars who accepted state employment retained some doubts about whether their cooperation with it was appropriate.¹⁰ Though they sometimes acted as servants of a ruler, learned and holy men seldom possessed power in the strict sense of being able to say or indicate that something be done with the assurance that it will be.¹¹ Authority, seen as distinct from power, implies that an individual can indicate that a certain thing should be done with the hearers responding that they ought to exert themselves to see to it that it is done, but authority does not carry a surety that it will be done. In its turn, influence can be distinguished from power and authority. Influence consists of being able to say that something should be done and have people think that the thing is a pretty good idea. Influence cannot guarantee the exertion, much less the actuality. In the Muslim world, religious scholars have most often had authority and influence. These they have exercised primarily in local contexts and through interpersonal contacts.

For those and other reasons, a fatwa may resolve nothing. The individuals who obtain it may put it in a box and ignore it. A scholar's opinion may exacerbate a dispute, contributing to arguments that go on for decades, even centuries.¹² If it confirms the position of one side and affirms its desires, the other might break off relations or seek its own fatwa from another mufti who might be sympathetic to its cause. The force of a fatwa depends in large measure on the authority, influence and skill of the individual mufti as well as on the loyalty which petitioners feel toward him and the institution he represents.

Max Weber fixed upon that personal aspect of the practice of shariah as proof that Islamic law was arbitrary and irrational.¹³ Weber's standard was, of course, the European nation-state which he considered the most advanced and rational form of human organization. Weber's influence on succeeding generations of scholars can

⁹ M. Hodgson, *Venture of Islam*, I (Chicago: University of Chicago Press, 1974), 238, 318, 351.

¹⁰ R. Repp, *The Mufti of Istanbul* (London: Ithaca Press, 1986), 118, 202.

¹¹ P. Hardy, 'The Authority of Muslim Kings in Medieval South Asia,' *Islam et Société en Asie du Sud*, Collection *Puruṣārtha*, 6 (1986), 37-55, 42-3.

¹² D. Powers, 'Fatwas as Sources of Legal and Social History: A Dispute Over Endowment Revenues from Fourteenth-Century Fez,' *Al-Qantara*, XI/2 (1990), 295-340.

¹³ B. Turner, *Weber and Islam* (London: Routledge and Kegan Paul, ?), 107-21.

be seen in much of their writing on shariah and its application. Some Islamicists have held that the Holy Law was static, incapable of self-induced change. Its lack of a bureaucratic, centralized method of enforcement made it too loose to serve as one of the foundations of a modern state.¹⁴

Weber and his intellectual heirs seem unable to allow the possibility that Muslim organizations and history move according to patterns significantly different, and no way inferior, to those which shaped the Euro-American past. A preference for local organization and personal loyalty has its own sort of rationality.¹⁵ As a guide to conscience, shariah has not only survived but adapted to massive economic, political and social change. Since it requires no centralized, ecclesiastical bureaucracy or state apparatus, it can maintain itself through relatively simple institutions. While some exponents of reform may aspire to make shariah the law of the land in truly Islamic states, the assertion that ultimately 'God alone knows the truth' allows it to escape the confining embrace of states which are modern, but also capable of a kind of tyranny which those who live in them may not recognize. If muftis lack the coercive powers of the state, they also avoid creating the resentment and evasion which coercion engenders.¹⁶

The following essay treats those and other issues in terms of the contemporary practice of *fiqh* in Hyderabad, India. The first two of its four sections describe something of the history of the city of Hyderabad and the Jamiah Nizamiyyah *madrasah*. The third portion focuses on the mufti of the Jamiah, while the last describes a number of sittings during which petitioners requested *fatawa*.

The City

Hyderabad is the capital city of independent India's state of Andhra Pradesh. For many, however, its fame has rested on its former association with the Nizams of the Asaf Jahi dynasty who, as the most

¹⁴ For examples, J. Schacht, *Introduction to Islamic Law* (Oxford: Oxford University Press, 1964), 62 and N. Coulson, *A History of Islamic Law* (Edinburgh: Edinburgh University Press, 1964), 82.

¹⁵ L. Rosen, *The Anthropology of Justice: Law as Culture in Islamic Society* (Cambridge: Cambridge University Press, 1989), provides a critique of Weber while supplying an alternate perspective suited to modern Morocco. A similar style of analysis, with somewhat different premises and conclusions could be undertaken for South Asia.

¹⁶ J. Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven: Yale University Press, 1990).

powerful rulers of the southern Deccan, participated in the struggles which followed the waning of Mughal authority. The Nizams managed to retain some independence during the British imperium and held the honor of being the highest ranked of the raj's 'native princes.'¹⁷

A princeling of the Qutb Shahi house which ruled the sultanate of Golconda before it was absorbed into the Mughal empire in the late seventeenth century founded the city of Hyderabad. Legend has it that he built a palace there in order to be near a favorite dancing girl. The city did not become politically significant until the latter part of the eighteenth century. The first Nizams preferred to keep their base of operations at Aurangabad in the northwestern Deccan. When warfare between the French, British and Tipu Sultan became intense, the second Nizam shifted the capital to Hyderabad.

Under the Nizams, and after the establishment of British dominance fixed its borders, the state was nearly as big as France. Though much of its territory was dry and sparsely populated, Hyderabad enjoyed a fair amount of prosperity. At least, many of its inhabitants of all faiths recalled the time with nostalgia.¹⁸ The memory of earlier power and prestige remained especially strong among Muslims.

In contemporary terms, Muslims constitute a mere three percent of the population of Andhra Pradesh. However, they make up about a third of the population of the twin cities of Hyderabad and Secundarabad. Not all Muslims shared an association with the region's former ruling elite. As elsewhere in the subcontinent, Muslims claiming foreign origin: Arabs, Iranis, Afghans, and northerners in general,¹⁹ often lorded it over their brethren identified as indigenous converts.²⁰ Though a Muslim's extra-Indian origins might be centuries old, the presumption of superiority to mere locals was maintained through intermarriage and constant association. Therefore, Hyderabad did not have a single Muslim community. Muslims were

¹⁷ J. Richards, *The Mughal Administration of Golconda* (Oxford: Oxford University Press, 1975) and K. Leonard, *Social History of an Indian Caste* (Delhi: Oxford University Press, 1978) provide interesting accounts of Hyderabad's history in the beginning and at the high point of the Asaf Jahis' reign.

¹⁸ H. Lynton and M. Rajan, *The Days of the Beloved* (Berkeley: University of California Press, 1974).

¹⁹ K. Leonard, 'Hyderabad: The Mulki-Non-Mulki Conflict,' *People, Princes and Paramount Power*, R. Jeffrey (ed.) (New Delhi: Oxford University Press, 1978), 65-106.

²⁰ I. Ahmad, 'The *Ashraf-Ajlaf* Dichotomy in Muslim Social Structure in India,' *Indian Economic and Social History Review*, III/3 (1966), 268-78.

divided by ethnic origin and class. On the other hand, being a minority did mollify certain other distinctions which had divided Muslims in North India. For example, Sunnis and Shiis did not develop the kind of violent antagonism found among their co-religionists in such places as Awadh.²¹

Perhaps because it was founded at a relatively late date, Hyderabad was not a traditional religious center.²² Many of its religious scholars claimed to have come from Arabia by way of the Karnatic region on India's west coast. Its most celebrated saints traced their lines back to the town of Qandahar in the northwestern Deccan.²³ Until the second half of the nineteenth century, no single school, family or saint acquired a paramount reputation or authority.

The lack of a significant British presence, together with Andhra's status as one of the poorest of India's states, gives Hyderabad a distinctly old world character. In the culture of the city's Muslim elite, this manifests itself in a number of ways. Even among those educated in modern institutions, Urdu remains *the* language of intellectual life. Hyderabadis speak an Urdu which is far more 'chaste (*khālis*)' than that of contemporary Dehlavis or Karachiwalahs. The infusions of Punjabi, Sindhi or English which have dramatically altered the style of Urdu spoken/heard in the more advanced areas of the subcontinent have not yet affected Deccani Urdu. The manners (*adāb*) of Hyderabadis feature an etiquette of greeting, conversation and departure no longer common among the inhabitants of South Asia's more modern cities. As if to confirm this assessment, a Dehlavi hearing those observations remarked that 'Indeed, Hyderabadis are not very civilized'; implying, of course, that they were not modernized.

Muslims in Hyderabad might appear to be more traditional than those living elsewhere in the subcontinent. But some of the currents of thought: for example, the debate over the approval of taking bank interest mentioned earlier, among Hyderabadis would indicate that they are willing to discuss openly problems created by modern institutions. Their supposedly more advanced brethren in Karachi or Delhi have not been quite so forthright.

A large Iranian community and an active cultural mission of the Islamic Republic have kept intellectuals informed about the events

²¹ J. Cole, *The Roots of North Indian Shi'ism in Iran and Iraq* (Berkeley: University of California Press, 1988).

²² K. Leonard, *Social History*, 23.

²³ Ghulam Mahbub Shah Abu'l 'ulāyi, *Arghwān-i Abu'l 'ulā'* (Hyderabad: Delaks Āfset Printers, 1979).

and ideas associated with the Revolution. The influence which the Iranian experience has seems related to the style of any given individual's intellectual training. Those who are products of modern schools appear to be more drawn to revolutionary idealism and more admiring of the Iranian Revolution's achievements than the traditionally educated.

Among Hyderabad intellectuals a common way of linking themselves to the international Muslim community is through an expression of concern that in Europe and America Islam is vilified and misrepresented. This sometimes takes on an anti-imperialist tone which holds that the United States seeks to dominate, even destroy, the Muslim world. When speaking in this way, people will often present the Iranian case as proof that Islam will eventually triumph over American pride and power. A rather different approach to the same topic emphasizes that Islam is the religion of peace and Muslims a peace-loving, moral and non-aggressive people wrongly portrayed as blood-thirsty terrorists. Those Muslims whose thinking is least affected by modern education rarely mention such things.

Muslims in Hyderabad can hardly ignore their minority status, but it has not prompted an exaggerated sense that Islam in today's India is in danger. Local and national politics are seldom a subject on which the intelligentsia, no matter what their education, dwell. Because the Hindu majority is highly factionalized and Muslims constitute nearly a third of Hyderabad's population, Muslims are often the pivot in state and city politics. In 1989, the mayor of Hyderabad was a Muslim and Muslims were the majority on the municipal council.

In the various complicated struggles between the Congress Party, Janata Party and Telegu Desham Party (TDP), the Muslims' support was divided between one or another grouping.²⁴ Also, loyalties have shifted as different Muslims have changed their views on which of the parties would protect or further their interests. While intercommunal violence has occurred, Muslims do not, on the whole, blame the national or state governments for inciting or tolerating it. Indeed, the TDP has sometimes disciplined its office-holders who have said or done anything which might be construed as anti-Islamic.

Hyderabad's Muslims do not seem to be a fearful minority. Yet, they appear to be inwardly focused. While intellectual life is lively, it is not impassioned. Especially in the city's older neighborhoods,

²⁴ P. Brass, *The Politics of India since Independence (The New Cambridge History of India, IV-1)* (Cambridge: Cambridge University Press, 1990), see sections on Muslims and Andhra Pradesh.

Muslims give the impression of being most interested in the personalities and events nearest to them. They speak more often of the city's famous mosques and their preachers than they do of the Imam Khomeini; of the recent fatwa on bank interest than of preserving the Muslim Personal Law in India.

While a number of theological academies (madrasahs) function in the city, two rather different educational institutions loom larger in the minds of both traditional and modern intellectuals. One is the Osmania University. The Jamiah Nizamiyyah is the other. The Asaf Jahi Nizams sponsored both establishments. Though the former was intended from the start to impart modern learning, it also emphasized instruction in the Urdu language. Scholars associated with the Jamiah Nizamiyyah madrasah evince some respect for the Osmania University, if only because it is the source of accreditation for all the city's schools. For their part, the scholars of the Jamiah see their institution as the most important center of Islamic learning in Hyderabad.

The Jamiah Nizamiyya

The Jamiah Nizamiyyah was founded in 1875 and one man receives credit for its creation: Shaykh ul-Islam Mawlana Hafiz Muhammad Anwarullah Faruqi Khan Bahadur Fazilat Jang. Both the man and the institution have many features in common with other Muslim leaders and madrasahs of nineteenth-century India. In that period, sacred learning became focused on schools rather than families. In earlier centuries, Islamic learning in the subcontinent was usually associated with a number of families scattered in the 'market (*qasbah*) towns' where Muslim gentry, shopkeeper/artisans, government officials and the learned/holy congregated. Although a number of lineages, for example that of the Firangi Mahal of Lucknow, enjoyed great respect, no one group could claim a predominant place.²⁵

Following the Revolt of 1857, a number of new madrasahs appeared which gave an institutional focus to sacred learning. They retained an emphasis on lineage, but went far beyond that by instituting programs with graded classes, graduation ceremonies and reform-

²⁵ F. Robinson, 'The 'Ulamā' of Firangi Mahall and Their *Adab*,' in *Moral Conduct and Authority*, B. Metcalf (ed.) (Berkeley: University of California Press, 1984), 152-83 and B. Metcalf, *Islamic Revival in British India* (Princeton: Princeton University Press, 1982).

ist curricula. The madrasah at Deoband has become the best known of those seminaries, but it was by no means the only one.

In the absence of a centralized clerical hierarchy which defined the nature of authority among the ulama, each school had to establish its own credentials. In that way, personal connections to previous generations of learned and holy men formed an important part of the process. Deoband was unthinkable without Muhammad Qasim Nanotawi who had many associations to the eighteenth-century reformer Shah Waliullah. The Jamiyah could not claim premier status without Shaykh Anwarullah and the three genealogies which validated his importance.

The first, that of physical descent, linked Shaykh Anwarullah through thirty-nine generations to the companion of the Prophet and second caliph, Umar.²⁶ As was typical of such lists, some of the names had only vague associations with particular places and periods. Many were generic in noting several Abdullahs, who are the sons of other Abdullahs. The tenth in line, one Shahab ud-din Faruq Shah Kabuli, was historically very important. Described as an immigrant from Afghanistan, he was reputedly the ancestor of the famous saint Farid ud-din Ganj-i Shakar and the 'Renewer of the Third Millenium,' Ahmad Sirhindi. Shaykh Anwarullah was through Faruq Shah the distant kinsman not only of a heroic figure of the Prophetic age, but also of one of India's most widely revered saints as well as one of the key figures of Islamic reform in India.

A second type of genealogy, not wholly distinct from the first, connects Anwarullah to his teachers and their teachers with special emphasis on the most noted scholars in any given period. Shaykh Anwarullah's father and grandfather were scholars residing in the northwestern Deccan. His father held an appointment as a *Qāzī* from the Nizam's government. Anwarullah began his studies with his father and a number of Deccani scholars. His biographer also noted that Anwarullah, 'completed his study of *fiqh* and the rational sciences (*ma'qūl*)' with Abd ul-Halim Firangi Mahali. He studied *fiqh* with one of that family's most noted nineteenth-century figures: Abd ul-Hai.²⁷ Mawlana Abd ul-Hai's reputation as a *faqih* (a practioner of *fiqh*) remains prominent in the contemporary period. His collected fatawa continue to be widely respected.²⁸ Sources within the Firangi Mahali family have confirmed, orally, their connection with Anwarullah.

²⁶ Rukn ud-din, *Matl'e 'ul-Anwār* (Hyderabad: Jama'at'ul Talabah-yī Jami 'ah Niẓāmiyyah, n.d.), 9.

²⁷ *Ibid.*, 12-13.

²⁸ Abd ul Hai, *Fatāwā-yī 'Abd ul-Hai*, *Urdu* (Deoband: Malik Publisherz, 1969).

When Shaykh Anwarullah founded the Jamiah, he adopted the syllabus of the Dars-i Nizamiyyah perfected at the Firangi Mahal. Clearly Anwarullah and his followers wished to associate themselves with this very prestigious lineage of scholars.

Genealogies of learned and holy men are self validating. The person at the end of the chain, in this case Anwarullah, confirms the truth of an assertion of intellectual descent. A pious and learned man must have antecedents of similar status. Since the Firangi Mahalis were among the oldest and most respected families of ulama in South Asia, Anwarullah had to have had an attachment to them, just as he had to have links to Baba Farid Ganj-i Shakar and Ahmad Sirhindi.

Shaykh Anwarullah's third genealogy (once again, it could include the same individuals mentioned in the other types) emphasized his spiritual pedigree, his links to famous sufi adepts. Hajji Imdadullah (d. 1899) was a particularly important figure in this chain (*silsilah*). Imdadullah was involved with many of the individuals who gravitated to the descendants of Shah Waliullah in Delhi in the 1840s. He was not, strictly speaking, a scholar. He had come to Delhi as a youth of sixteen and studied Persian for a short time. He exerted influence through his spiritual attainments. Imdadullah was the 'Shaykh of the ulama' because upwards of 800 religious scholars acknowledged him as their preceptor.²⁹

Imdadullah went to Mecca in the wake of the 1857 rebellion. Shaykh Anwarullah came into contact with him there. Although he had taken his initiation into all the major sufi orders of India at the hands of his own father, Anwarullah repeated his oath of discipleship (*bai'at*), also in the major lines of the Chishti/Qadris and Naqshbandis, to Imdadullah. In doing this, he joined many other leaders of India's Islamic revival, including one of the founders of Deoband: Muhammad Qasim Nanotawi.

All three genealogies are much more than records of physical, intellectual or spiritual descent, they are arguments, statements intended to prove a point.³⁰ The point is that Shaykh Anwarullah ranks in learning and spiritual attainment as a major figure of his time. Since no ecclesiastical hierarchy exists which can grant authority in Islam, such genealogies are one of the few ways in which an individual and his followers can demonstrate a leader's prestige.

The impact of such arguments is at the same time localized: significant within restricted social contexts. Alternate genealogies exist

²⁹ Metcalf, *Islamic Revival*, 79–80.

³⁰ B. Sahlins, *Islands of History* (Chicago: University of Chicago Press, 1985), 23ff., for a discussion of genealogy as argument in a very different historical context.

side by side with the one a particular group affirms. Opponents may diminish, challenge or deny the claims of any leader. In South Asia, the ulama of one region may reject the claims of another region's learned men. A given school, the Deobandis for example, may attack the credentials of an opposing tendency such as that of the Barelwis.

Individual believers may be predisposed to accept the authority of an Anwarullah and his madrasah by regional association or because their forebears were loyal to them. They must also be aware that other Muslims consider their assertions of leading status to be mere pretension. When confronting such opposition, loyalists have two choices: they may ignore their opponents or themselves reject their antagonists' genealogies. The sometimes sharp disputes between South Asia's various Hanafi organizations show that Muslims do choose to argue with each other.³¹

In the absence of an ecclesiastical hierarchy capable of resolving conflicts over precedence, Muslim rulers might have provided a source of legitimacy for religious scholars. Some Muslim kings did have that ambition. The Mamluks and Ottomans partially succeeded in attaining some measure of control over scholarly hierarchies which they helped to create.³² However, many of the ulama, including men who were those systems' creatures, harbored the suspicion that temporal rulers could not be pious Muslims. They had a persistent reluctance to concede to them any right to influence questions of the faith.³³ By the 1860s, north Indian reformers operated in a world which had no powerful Muslim rulers. The Mughal padishahs and Lucknow Nawabs had passed from the scene leaving only modest princes such as the rulers of Rampur as possible sources of support for one or another tendency. While some Muslims did attempt to draw the British government into their internal struggles,³⁴ most of the ulama looked upon the raj, as they might well have considered an impious sultan: unsuited to resolve questions of authority within the community.³⁵

The situation in Shaykh Anwarullah's Hyderabad was different. The Nizams retained considerable power and prestige. In itself, that

³¹ For an example of how Muslims disagree in a different historical context, M. Fischer and M. Abedi, *Debating Muslims: Cultural Dialogues in Postmodernity and Tradition* (Madison: The University of Wisconsin Press, 1990).

³² Repp, *The Mufti of Istanbul* and C. Petry, *The Civilian Elite of Cairo in the Later Middle Ages* (Princeton: Princeton University Press, 1981).

³³ M. Kerr, *Islamic Reform* (Berkeley: University of California Press, 1966), 11.

³⁴ For example, *Ata-ullah (and another) v. Azim-ullah (and another)*, *Indian Law Reports, Allahabad Series*, XII, 430ff.

³⁵ Metcalf, *Islamic Revival*, 10-12; 146-57.

provided something of a dilemma. One of Anwarullah's biographers acknowledged the difficulty by trying to assert the Shaykh's independence of the Asaf Jahis, while contending simultaneously that he had great influence at their court.

In biographies of Anwarullah, both aversion and attraction to the Nizam's government appear. The Shaykh's father, as noted, served the state as a Qazi. His father's influence secured an appointment for Anwarullah as a precis writer in the Revenue Department. Sources give two different accounts of the reasons for Anwarullah's resignation from government service. Each illustrates the suspicion which the pious harbor about their temporal rulers.

In the first story, the Shaykh received a document to summarize which involved the taking of interest. He refused to deal with the matter because it contained something forbidden by the Holy book. In an effort to dissuade Anwarullah from quitting, his chief clerk promised that he would never again be forced to handle a subject impinging on his religious scruples. Anwarullah rejected the compromise by asserting that if he took a salary, he must perform any task his employer gave him.³⁶

The second story absolved the Nizam's government from any direct complicity in a violation of shariah. In it, the head of the Revenue Department is an Englishman named Dunlop. Anwarullah's conflict arises over his scrupulous attention to the observance of daily prayers. Dunlop calls Anwarullah to his office only to be told by other employees that he is still at prayer. Dunlop wonders that the Shaykh has so little concern for his official duties. When he hears of the remark, Anwarullah quits the Nizam's employ.³⁷

Whatever the reason for his departure from government, Shaykh Anwarullah began teaching students in one of Hyderabad's mosques. Also, he made the first of three trips to the Hijaz. As further proof of his piety, his biographers report that Anwarullah wanted to spend the rest of his life in the Holy Cities. In a story typical of religious scholars in this period, the Holy Prophet appeared to Anwarullah in a dream and ordered him to return to his native place in order to further the teaching of the Islamic sciences.³⁸ Returning to Hyderabad at the Prophet's command, Anwarullah began to transform his mosque school into a full-fledged madrasah.

³⁶ Rukn ud-din, *Matl'e*, 14-15.

³⁷ P. Farooqui, *A Study of the Jami'a Nizamia, Hyderabad*, (Hyderabad: Secretary Jami'a Nizamia, 1972), 20-1.

³⁸ On the importance of dreams of the Prophet, Metcalf, *Islamic Revival*.

In that task, the Shaykh received the approval and financial support of the Nizams. While the stories of his active contempt for government service preserve his integrity and independence, biographers also dwell on his close personal ties to the Nizams. The Jamiah received grants from the Hyderabad State's Education Department. Anwarullah became the tutor of Nizams Mahbub and Osman. Both rulers showered him with robes of honor and titles such as Khan Bahadur as well as the unique sobriquet Fazilat Jang. Those Muslims currently associated with the Jamiah continue to stress both Anwarullah's independence together with his prominence in the Nizams' household. Since the Nizams no longer have power in Hyderabad, the pious may safely attribute to them a genuine devotion to the cause of Islam which removes any taint which might accrue to Shaykh Anwarullah from his close association with the Asaf Jahis. No reigning Nizam can possibly behave in the impious ways which religious scholars often criticized.

As it operates today, the Jamiah emphasizes the learning, simplicity and sanctity of Shaykh Anwarullah. From the most senior scholar to the most junior pupil, any discussion of what the Jamiah Nizam-miyyah's identity and current role is leads very quickly to Shaykh Anwarullah. A description of the current institution must take into account the exemplary character of its founder.

An institution's architecture and appearance reveals something about the esprit de corps which motivates the individuals associated with it. One enters the Jamiah through two sets of gates. The first is of fairly recent vintage. It is made of steel and apparently could withstand considerable pounding. It is open most of the time, but available to seal off the madrasah at night or should the need for protection from outsiders arise. It reminds the visitor that since 1947 Muslims in Hyderabad have sometimes had to protect themselves from attack.

The inner gate which dates from the early years of the present century is old fashioned, wooden with iron reinforcements, but its hinges are flimsy. An assault by four or five determined men would probably bring it down. The wooden gate is usually closed and barred. A small door remains open, but it admits no more than one individual at a time. Moreover, one must crouch to pass through the opening. Neither gate is forbidding, but both serve to remind entrants that they have arrived in a place set apart from the ordinary world.

Passing through the inner gate, one arrives in a courtyard consisting of hard, mostly barren, earth relieved by occasional clumps of

grass and weeds. A number of structures surround the courtyard, but one's eyes fix almost immediately on a small, square, domed structure which is obviously a tomb. In it, a cenotaph marks the resting place of Shaykh Anwarullah. The tomb itself in every way resembles that of other sufi saints.³⁹ An outsized turban rests on the marker, garlands cover it as do green scarves indicating that people have requested Anwarullah's intercession. When a prayer has been answered, they will take one of the scarves as a remembrance. Visitors, students and staff stop in the small shrine/tomb to seek the blessing which contact with a holy man's remains imparts.

Apart from the tomb, a series of simple, but neat, whitewashed buildings houses classrooms, dormitories, a library, publishing house, administrative offices and a dining hall. On a slight mound of earth stands a modern, steel-framed mosque. Each has its place in the life of Jamiah.

In the building directly across from the gates, the head of the madrasah, the Shaykh ul-Jamiah, has his office. As other faculty members, the Shaykh wears white *shalwār* (loose-fitting drawers) and a *sherwānī*: a high collared coat with a skirt reaching from the waist to just below the knees. The sherwani's origins were in the ordinary court dress of Mughal notables, but in this century, together with the *shalwar/pai-jama*, it serves to identify a Muslim who eschews European dress. The shalwar-sherwani is still common dress for males in Hyderabad and not necessarily the mark of a religious scholar. Some of the students wear European style trousers and shirts; others the *kurta* and *pai-jama*. None of the students wears a sherwani, which makes it a token of seniority. All students wear skull caps or *karakul* hats of the style favored by Abul Kalam Azad and the post-1935 Muhammad Ali Jinnah. Apart from their sherwanis, many of the faculty distinguish their status by wearing a turban. The Shaykh ul-Jamiah's turban is made of green cloth; green being Islam's chief symbolic color.

In 1989, the teaching faculty of the Jamiah numbered thirty-six and about 500 students were studying in the institution. Of that number, approximately 300 lived in the Jamiah's hostel, while the others were day students. The youngest of them were six or seven years old, while the oldest were men in their mid-twenties. Once a study of the Holy Quran was completed, the basic curriculum followed the Dars-i Niza-

³⁹ *Muslim Shrines in India: Their character, History and Significance*, C. Troll (ed.) (New Delhi: Oxford University Press, 1989).

miyyah developed in the Firangi Mahalis' madrasah. In addition, mathematics, Greek Medicine (*Yunānī Tibb*), geography and history were part of the course of study. Introductory instruction took place in Urdu. The faculty assumed that Urdu was the mother tongue of all students, but in practice made concessions for those who entered knowing only Telegu: the language of the region's majority. As a student progressed through the curriculum more stress fell on Persian and then Arabic. In the advanced courses, all the texts were in Arabic.

The student population clustered at the junior levels. Graduates matriculated in one of several classes. The lowest of these was the rank of *Mawlwī*. About 100 students reached that grade in any given year. The Mawlwi status did not grant the holder any special powers. A further two years of study, together with passing marks on the regular, required examinations earned the title *Mawlwī 'ālim* which entitled the successful candidate to perform marriages and act as a prayer leader: *peshīmam*. Only about seven students per year completed that course. Beyond Mawlwi 'alim, the Jamiah awarded the title of *Mawlwī Kamil*. The faculty described the latter as equivalent to an M. A. It also bestowed the right to issue fatawa. Six or seven students passed at that level yearly. Many who aspired to the rank of Mawlwi Kamil introduced themselves as the sons of sufi *pīrs* (masters) or pirs in their own right. Finally, two or three students conducted advanced research: usually biographies of one or another of the great figures associated with the Jamia or advanced discussions of the Islamic sciences. The faculty eagerly pointed out that the National University Grants Commission in Delhi recognized such work as eligible for government support.

Appeals to modern educational criteria indicated that faculty derived some satisfaction from the recognition provided by outside scholarly organizations. They placed greater emphasis, however, on the preservation and extension of 'Islamic learning,' in the 'Hanafi way.' Shaykh Anwarullah himself was their model in those fields. He wrote many books, including a biography of the Holy Prophet,⁴⁰ described by one teacher educated in Egypt, as 'the best and most profound in Urdu.' In two volumes, he explored the vast subject of Hanafi fiqh.⁴¹ He also wrote didactic poetry and books on social/moral reform which total some twenty-three volumes in addition to

⁴⁰ Anwarullah Fazilat Jang, *Anwār-i Ahmādi* (Hyderabad: Majlis-i Ishā'at'ul-'ulūm Jamī'a Nizammiyah, 1986).

⁴¹ Anwarullah, *Haqīqat'ul-Fiqh* (as in #40, 1984).

the ones noted above.⁴² The Jamiah's publishing house keeps all of Anwarullah's works in print and thereby proclaims his reputation as both scholar and saint. The faculty of the school also take great pride in the madrasah's library, pointing out that on his three trips to the Holy Cities Anwarullah copied dozens of rare books in his own hand.

Current faculty note that in the Shaykh's time—roughly the last years of the nineteenth century and the first decade of the present one—students came from Afghanistan and Arabia to study at the Jamiah. At present, a few come from Bihar and North India, but most of the students are Deccanis. The number of students today is only half what it was in the founder's era. But in the 1920s and 30s the student body shrank to between 200 and 300. Therefore, the faculty seem encouraged that so many students have come to the Jamiah. They mention that other 'beginning schools,' including a girls' academy, have affiliated to the madrasah. To them it indicates that the Jamiah's influence in the Deccan, at least, is secure.

In financial terms, the Jamiah operated in 1987–88 on a meager budget of Rs 1,600,000. The two greatest sources of income were rents collected on commercial or residential properties donated to the school and the proceeds of an auction of the skins of sheep or goats sacrificed at the Id uz-Zuha and given to the madrasah. Each of those brings in roughly Rs 500,000. The balance of the money comes in relatively small amounts donated by the faithful, from the minimal fee of Rs 10 offered by those who request a fatwa, and the sales of books.⁴³

Student fees were prorated according to their families' income and constituted a surprisingly small resource. The faculty pointed out that the students who lived in the madrasah's hostel received a simple, but ample, diet: 'They get meat everyday, which most would not have if they lived at home.' Teachers as well as supporters of the Jamiah expressed a confidence that God would provide for all of the school's needs. The modest means on which it has survived fits well with the Jamiah's emphasis on simplicity and lack of display.

Salaries for the Jamiah's teachers averaged out to something like Rs 1000 per month. Many faculty supplemented their incomes by serving as preachers and prayer leaders in Hyderabad's mosques. While their wages placed them in South Asia's middle class, the teachers' finances hardly permitted extravagance or ostentation.

⁴² *Ijmālī Ta'āruf*, the Jamia press's list of Anwarullah's works as well as others it prints.

⁴³ *Ta'āruf-o Report* (1988), 14–23.

Their standard dress of pai-jama and sherwani did not allow for distinctions of wealth which were immediately apparent. Moreover, they gave every sign of considering a display of wealth not consonant with scholarship and piety.

Another aspect of the Jamiah's self-definition is its affiliation with the Barelwi tendency. Of the major movements among South Asian Muslims: Ahl-i Hadis, Deobandi and Firangi Mahali, the Barelwi seem to come in for a disproportionate share of abuse from their opponents. As one supporter of Deoband writes in the entry for Barelwi in his book's glossary,

It accepted the prevailing superstitions and corruptions and championed the cause of saint-worship and other accretions. . . . Politically, the school, as a whole, has been reactionary. It is still active and represents the most ignorant and morbid section of the Muslim community in India.⁴⁴

While less patently abusive, the assessment offered by a contemporary American historian of the Deoband movement is equally critical of the Barelwi approach. In her estimation, the Barelwi's acceptance of the concept of mediation tends to diminish individual responsibility and rationality which supposedly characterize the Deobandi style.⁴⁵ A detailed discussion of the disagreements between the two groups is out of place in this context,⁴⁶ but several aspects of the conflict do form part of the self image of those associated with the Jamiah Nizamiyyah.

When asked to describe the bases for their disagreements with the Deobandis, different scholars provided different accounts of the split. Some seek to minimize the distinction by noting that 'We are all Hanafis, we are all Muslims, such arguments are a matter of personal-ity.' Others mentioned that the distinction was geographical, 'Their territory is the North, we are Deccanis.' More serious questions of religious practice included the notion that the Deobandis condemned elaborate burial and death anniversary rituals. 'They do not respect the great saints,' was another comment. Perhaps most seriously, a number of scholars said of the Deobandis, 'They put on airs. They have no regard for the common man. They make their learning a barrier between themselves and the pious but ignorant.'

⁴⁴ Z. Farooqui, *The Deoband School and the Demand for Pakistan* (New York: Asia House Printing, 1963), 127-8.

⁴⁵ B. Metcalf, *Islamic Revival*, 296-314.

⁴⁶ For a discussion of these see, U. Sanyal, *In the Path of God* (New Delhi: Oxford University Press, forthcoming), based on her 1990 Columbia University dissertation.

When asked when this division between themselves and the Deobandis occurred, one scholar tried to place it back in Shaykh Anwarullah's day. After mentioning that both Muhammad Qasim Nanotawi and Anwarullah owed allegiance to the same pir, Hajji Imdadullah (see above), this individual told a story about how the Nizam once asked Shaykh Anwarullah if he should send money to support the work of Deoband. Anwarullah replied that he ought to send a gift, but to support the teaching of Quran only, never to sustain education in any of the other Islamic sciences. The Nizams, and many other Hyderabadis, did send monetary gifts to Deoband, apparently without restrictions on their use.⁴⁷

That account certainly reflects a desire to trace every current attitude and practice back to Shaykh Anwarullah. It may not, however, be an accurate statement of how the Barelwi/Deobandi split came to affect the Jamiah. Anwarullah himself, and his immediate followers, associated with other leading personalities of the nineteenth century Islamic revival. His biographers mentioned the connection through Hajji Imdadullah to Muhammad Qasim Nanotawi, a founder of Deoband, without a hint of criticism of the latter or of Deoband. In addition, the split between Barelwi and Deobandi occurred relatively late. Shaykh Anwarullah died in 1918, when the dispute between the groups was not yet as embittered as it became later in the twentieth century. Moreover, Anwarullah's successor as head of the madrasah, Muhammad Ahmad was a Deobandi. Had the division occurred in the Shaykh's time such an appointment would have been unlikely. One of Anwarullah's biographers suggests that the break might have occurred during the principalship of Muhammad Ahmad. A flurry of orders and requests for decrees (*farmāns*) from the Nizams as well as a reorganization of the school's advisory board followed Muhammad Ahmad's accession.⁴⁸

Current criticisms of the arrogance and high handedness of the Deobandis more probably reflect very personal arguments which took place in the 1920s. An affirmation that their way is one of respect for sufi saints and humility certainly became part of the *ulama* of the Jamiah's understanding of what it was that set them apart from other religious scholars. It may have accounted for the original argument or it may elevate personal misunderstanding to a theological plane.

Through their architectural appearance as well as in traditions of belief and deportment expected from their habitues, institutions can

⁴⁷ Metcalf, *Islamic Revival*, 23, 35, 41, 87, 96.

⁴⁸ Rukn ud-din, *Matl'ē*, 78.

develop a kind of personality which they transmit to successive generations.⁴⁹ Jamiah's plain, but solid, buildings inspire a sense of durability. To the humble men it attracts, it transmits quiet confidence. Nothing about the architecture overawes, rather it draws by its lack of pretense. The scholars and students of the Jamiah seem to share those same qualities. They all emphasize the Jamiah's history, the learning, sanctity and humility of its founder as well as his ability to influence kings through his integrity.

Faculty and students conduct their work in an atmosphere of 'gravity' in the old Latinate meaning of the word.⁵⁰ They are not somber, but they are definitely restrained. For example, when the appearance of a large foreigner who answered their questions in something which resembled Urdu excited the natural exuberance of the nine and ten year olds, a number of the more senior students, without a cue from their masters, quickly sought to quiet the commotion by the application of several sharp blows to the backs of any of the youngsters in reach. The boys either retreated to a safe distance or assumed a more sedate posture. Someone approaching the mufti of the Jamiah must be impressed by the aura of seriousness, piety and scholarship which pervades the institution.

The Mufti

Many Islamicate languages employ references to the face as the key metaphor expressing the emotional and spiritual state of the inner self. When one does well or is good, his face is 'white:' i.e. 'it shines.' The face of one who has erred is black. According to that usage, the mufti of the Jamiah's face is that of a man who has never done anything of which to be ashamed. To a Euro-American, it seems ageless, unmarked by stress, guilt or pretension. A beard in which gray hairs dominate may indicate that a man has entered his middle years, but a more exact reckoning is not possible. A Hyderabadadi guessed, 'He is about fifty five.'

The mufti discussed in this paper, like most of the Jamiah's faculty, received all his training within the madrasah. His father had served as the institution's mufti for a number of years, but eventually took

⁴⁹ For a finely nuanced examination of that phenomenon in Egypt, P. Gaffney, 'Authority and the Mosque in Upper Egypt,' *Islam and the Political Economy*, 199-225.

⁵⁰ P. Brown, 'Late Antiquity and Islam: Parallels and Contrasts,' *Moral Conduct and Authority*, 23-37.

up less demanding duties as professor of logic (*maqul*). In 1989, the mufti was also the Shaykh ul Fiqh (professor of fiqh). Apart from his formal education, he had served for seven or eight years as his father's deputy. He has been, by his own description, a 'first class mufti' since 1985.

Next to the Shaykh ul-Jamiah, who embodies the learning and sanctity of the institution, he occupies the place most visible to outsiders. When people request a fatwa, they approach him. He has, therefore, a crucial role in establishing, enhancing and maintaining the faithful's attachment to the institution.

In its yearly reports, the Jamiah places considerable emphasis on the giving of fatawa. Next to educational work, they list it first among the madrasah's other activities.⁵¹ Within the Jamiah's organizational framework, the mufti is the only scholar authorized to provide a fatwa in writing. As one student put it, 'The Shaykh of the Jamiah will not give a written fatwa. He will send even a friend to the mufti.' Even so, every fatwa passes before a board consisting of four other professors, including the current mufti's father and the Shaykh ul-Hadis (professor of Prophetic traditions) who also served as mufti. In addition, the principal of the institution signs every opinion.

If in reviewing a fatwa, any member of the board has an objection, then the mufti will reconsider and rewrite his fatwa. Also, if he encounters a difficult case, the mufti will seek the guidance of the board's other members. Three questions arise from that arrangement: the first on the authority of the board; the second on the significance of written fatawa; a third on the nature and frequency of problems requiring the entire board's scrutiny.

The signatures which the board and the Shaykh ul-Jamiah provide attest to the surety of an opinion. An individual might make a mistake, but the likelihood of six scholars agreeing to an erroneous opinion must be slight. The process thereby reflects an institutionalization of authority which occurred as a consequence of the reformist movements of the nineteenth century. Since that era, scholars have sought to cultivate mass followings through the collectivization of their efforts. The Deobandis placed similar importance on fatawa issued by the madrasah, rather than by individual scholars.⁵²

In contrast to procedures common in the past, a committee approach differs from that of the collective fatwa which scholars have

⁵¹ *Report*, 9.

⁵² Metcalf, *Islamic Revival*, 146-57.

sometimes issued.⁵³ The force of a joint opinion rested on the prestige of all ulama signing it. The approach of the Jamiah, and most other South Asian religious academies, involves a change in focus: believers' loyalties should center on the institution rather than on the particular scholar. Nevertheless, without the mufti's personal abilities the madrasah might well have little influence or authority on the Muslims of Hyderabad.

In theory, an oral fatwa should have the same force as a written one,⁵⁴ but scholars presently attached to the Jamiah seem to give greater weight to one placed on paper. A young scholar, a Mawlwi Kamil graduate of the madrasah, and the pir of a sufi shrine in Hyderabad, explained the situation as follows.

My disciples (*murids*) will sometimes ask my opinion. They will ask and I will answer in the same style as all fatawa. Usually this will be enough, but if they want a written opinion, then I send them to the mufti. He will simply write down what I have already said. Also, when writing, he will cite a text, which I would not do when speaking a fatwa.

Hearing that explanation, another, secularly educated, scholar objected, arguing that to be valid fatawa have to be written down. Otherwise, the opinion was merely guidance which did not need to be acted upon. The pir repeated that all fatawa ought to be equally binding. A written one simply provided a permanent record of what has already been said. He did affirm, however, that only the Jamiah's mufti was entitled to issue a formal written statement specifying the course of action believers should follow. Since the mufti's opinions appear on paper which bears the name of the Jamiah Nizamiyyah, it partakes of the collective authority of the madrasah and attests to the mufti's status as a man of learning and piety.

The mufti indicated that only on a few occasions had the board raised some objection to his opinions. The instances when someone posed a difficult question on which he sought the board's advice were likewise rare. When asked for an example of a situation which required a summoning of the entire board, the mufti cited one involving family relations. A woman had left her husband, taken their children and gone to live in another house without informing him of her whereabouts. Sometime later, the husband heard about his wife's new address and wrote to her of his desire to reestablish marital

⁵³ For examples of joint fatawa, Repp, *The Mufti*, 106, 109 and Kozlowski, *Muslim Endowments*, 169-71.

⁵⁴ *The Function of Documents in Islamic Law*, J. Wakin (trans. and ed.) (Albany: State University of New York Press, 1972).

relations. She responded, 'If you come near me again, you will be giving me a divorce (*talaq*).'

When the husband, more or less by accident, wandered into the courtyard of the place where she was staying, the wife insisted that he had thereby divorced her. The whole question of the validity of divorces based on future, uncertain contingencies is hotly disputed in shariah. Indeed, whether a woman can stipulate conditions for her own divorce seems even more problematic.⁵⁵ Those complexities no doubt provided the impetus to issue an opinion backed by a number of scholars. The mufti and his colleagues held that the divorce was valid. Their ruling itself may have been based more on practical considerations than on a fine reading of relevant texts. 'After all, she did not want to live with him,' the mufti explained. In such seemingly minor ways, Muslim law continues to adjust to changing circumstance.

Unusual dilemmas apart, the mufti remains the central figure in the provision of fatawa. Petitioners do not see the board, only the mufti. Both his learning and deportment must contribute to the authority which a particular scholar projects. As noted, the Jamiah carefully cultivates an atmosphere which bespeaks learning. This image is affirmed when one enters the mufti's study. He sits on the floor behind a writing table. He is surrounded by other low tables laden with folio volumes. He usually wears a sherwani and white turban wrapped around a white cap (*kulah*).

He reveals his specialized knowledge when he picks up one of his books and begins searching through it. The book is almost always in Arabic, but the very presentation of the text (or texts, since three, four or more may be printed together) jars the untrained eye. Any given page can look like a kind of jigsaw puzzle. The main columns are surrounded by commentaries, glosses on the commentaries and all manner of scholia. While some books feature columns of print, others are arranged in six, seven or eight triangular wedges which become progressively narrower as they move toward the center of the page. Commentaries appear at the four corners of the page in the spaces left by the circle of texts. Knowledge of where to begin reading can only come from special instruction in such styles of writing and from familiarity with the texts based on memorization.⁵⁶

⁵⁵ A. Layish, 'Qādīs and Sharī'a in Israel,' *Asian and African Studies*, 7 (1971), 237-72, 241-8; L. Carroll, 'The Muslim Family Laws Ordinance, 1961,' *Contributions to Indian Sociology* (NS), 13/1 (1979), 118-24 and *idem*, 'Muslim Women in India and England: Divorce and Alimony,' *Islamic Quarterly*, XXX/i (1986), 20-30.

⁵⁶ D. Eickelman, 'The Art of Memory: Islamic Education and its Social Reproduction,' *Comparative Studies in Society and History*, 20/4 (1978), 485-516.

The mufti asserted, pointing to the volumes arrayed beside him, that the books contained, in principle, the answers to all possible questions in fiqh. That did not mean, however, that he would always be able to find the correct answer to every problem. His view was that scholarship in the Islamic world had greatly declined since the period in which many of his books were written. 'In Abu Hanifah's time, they knew thirty or forty books from memory. Who can do that today?' 'No one in the present age can claim the title of *mujtahid* (a scholar entitled to formulate a genuinely independent opinion), because no one has the requisite learning.' By tradition, every fatwa ends with the assertion, 'God alone knows the truth.'⁵⁷ Since the mufti appends this phrase to his rough drafts, it seems to reflect a genuine humility rather than a pro forma declaration.

In the interaction between the mufti and his petitioners, humility was evident in the calm and patience he seemed always to display. He addressed those who came to him politely on a level of ordinary etiquette. The Urdu language has several degrees of politeness or rudeness (and subtle ways of turning the former into the latter), each with its appropriate endings and tone. The mufti was not overly polite, nor was he condescending or dismissive. The only time his face betrayed emotion was when a faint smile crossed his lips. On one occasion a person asking for a fatwa interrupted one of the mufti's classes. Instead of dismissing the students, he allowed them to sit through the session. Their behavior provided a hint about the source of the slight grin. As the individual told his story, when the mufti smiled, the students guffawed. Nothing in the surface meaning of the client's statements seemed hilarious, but subsequent questioning revealed that the cause of the laughter, and presumably the smile, was the man's tendency to blurt out details of family life or make comments on the other persons involved in the case which had no relevance to the matter at hand, but revealed too much about what should have been private knowledge. During his conduct of interviews with petitioners other qualities of his personality which contributed to his success as a mufti became apparent. Subsequent accounts of those sessions will contain mention of these.

For all his qualities of learning and personality in addition to the prestige of the madrasah which attaches to him, the mufti's authority did not go unquestioned even within the Jamiah. When asked about

⁵⁷ For a discussion of the written form of fatwa, G. Kozlowski, 'Process and Decision in the Work of a *Mufti* in Modern India,' in *Worldly Interpretation: Muftis and the Discovery of God's Law in Muslim Societies*, M. K. Masud, B. Messick and D. Powers (eds) (New York: Social Science Research Council, forthcoming.).

the opinion of another scholar that taking bank interest was permitted (see above), this mufti responded that he concurred with this view because India was *Dār 'ul-Harb* (lit. 'The Abode of War,' referring to any territory not part of the Muslim world) and things normally forbidden could be done in such a place. Later, when someone repeated the mufti's statement to a former pupil of his, the pupil began to say, 'No! No!', he could not have said that. You must have misunderstood him. He can not think that way. Under the Mughals and the Nizams India was *Dār 'ul-Islām* (lit. 'The Abode of Peace/ Islam') and once a country is Dar ul-Islam it always remains so.' When informed by other witnesses that the mufti indeed spoke in this way, the pupil kept insisting that either his informants had misunderstood him or the mufti had, for some unknown reason, misspoke himself.

That small case of assertion and contradiction highlights a certain ambiguity about the authority of religious scholars. Though a pupil of the mufti, with obvious respect for his old teacher, the younger scholar could not accept the idea that they might have opposing views of the same issue. He could reconcile the discrepancy only by saying that the reporters or the mufti had slipped up.

Another source of ambiguity arises from popular notions about the character of mullahs. Many, perhaps the majority of Muslims seem to affirm that mullahs are the custodians of shariah and genuinely learned. A minority, however, averred that most mullahs were none too bright. As one man explained, 'If a father has four sons and three of them are intelligent, he will do his best to make them lawyers, engineers or doctors. If the fourth one is not so smart, he will make that one a mullah.' While such negative statements may be partly rooted in a bias which those professionals educated in modern schools have toward the traditionally educated, pious Muslims will from time to time criticize the ulama and their style of learning. A serious Muslim intellectual, albeit one trained in modern schools, once noted, 'You know, they do not even teach the *Quran* in those places [referring specifically to the Jamiah, but also to madrasahs in general]. They teach commentaries and not the Book!' Some types of criticisms have roots in the folklore of the past. For example, people cite the proverbial greed of mullahs: 'If you want a fatwa, just give a mullah some money; you will get what you want.'

Individuals voicing such a low opinion of religious scholars would probably not seek a fatwa, but even the pious genuinely interested in being informed about the shariah, must understand the limits of a

religious scholar's power. Such ambiguity is inherent in the shariah's status as guide to conscience.⁵⁸ Principles may be stated and an appropriate solution to some problem provided in the form of a fatwa, but compliance cannot be guaranteed. A mufti has no way of making sure that his petitioners will do as they are told. He cannot excommunicate them or prevent their seeking another fatwa from some other scholar. The mufti must rely on the consciences of believers as well as on their loyalty to him or the institution he represents. The ulama of the Jamiah expressed the conviction that 'our people' would never ignore a fatwa the mufti delivered. When the question of whether a client might seek a second opinion arose, one scholar took the opportunity to jab at the Jamiah's rivals. 'The Deobandis might do something like that,' he said. The mufti himself responded in a typically neutral, but direct fashion to the same question, 'How would I know?'

Making Fatawa

An average of five or six requests for fatawa per day come to the Jamiah. Some of them come by mail from Hyderabadis living not only in India, but in Pakistan, the Gulf, England and the United States. The mufti mentioned that some people living 'near Chicago' had sent him the architectural drawings for a mosque. On examining them, the mufti discovered that the *qiblah*, which indicated the direction of Mecca, was off its correct position by some twenty degrees. He informed his correspondents that the design had to be changed. However, questions about the proper alignment of mosques were a notable rarity. Most of the questions submitted concerned the topics of inheritance or marriage and divorce.

Petitioners appear between the hours of 10:00 AM and 3:00 PM, they are usually unannounced and have no specific appointment, even if their case has required more than one consultation. The mufti and a secretary/copyist are supposed to be on duty to take care of their requests. Those who come to obtain a fatwa first meet with the secretary who checks the question (*istifta*) they have brought with them or drafts one for them if they have not. The *istifta* is fundamental in more than one way to the process of making a fatwa. In some collections of fatawa, the responses to questions are a simple 'permitted (*jā'iz*)' or

⁵⁸ *Shari at and Ambiguity in South Asian Islam*, K. Ewing (ed.) (Berkeley: University of California Press, 1988), see especially Ewing's 'Introduction,' 1-22.

‘forbidden (*nā-jāiz*).’⁵⁹ Such works demonstrated the importance of the original request. If it were not correctly phrased, it might not elicit the expected response. Thus, an *istifta* could be constructed in such a way as to admit only a single favorable reply.⁶⁰ In the situations which follow that ploy would have been difficult to attempt; in part because the questions raised were complicated and partly because most of the people raising them lacked the required sophistication on the subject of *fiqh*.

Collections of *fatawa*, particularly those which have appeared since printing came into wide use, tended to be highly formalized. Stock phrases such as ‘What do the masters of the faith say?’ came into wide use. Also, by convention, the names of real individuals did not appear in either the request or the opinion. In their place, scholars employed ‘*fulān*’ the Arabic for ‘someone,’ or ‘anyone.’ Another style uses ‘Umar’ and ‘Zayd,’ the stock characters of Arabic grammar. In the final copy of the *fatwa* those forms are followed, but they are not employed in discussions of the actual case.⁶¹ Requests and responses are numbered as well as entered into a log with numbered pages; providing a further level of formality. By way of contrast, the initial stages are more informal.

In the first problem posed to the mufti, a young man entered the room, introduced by the clerk who had checked his request. This *istifta* used the real names of the individuals involved. The young man was a shopkeeper as his father had been. The father had recently died leaving two wives, three sons and three daughters. The young man had come on behalf of himself and his full brother. The other children were offspring of the second wife.

According to the *istifta*, before his death the father had written a deed of gift (*hibahnāmah*) assigning ownership of one of two houses which he owned to the brothers alone. According to the strict dictates of shariah, a dead man’s estate must be divided among all eligible heirs according to a fixed schedule of shares. While they live, individuals can make a gift of property, with the essential qualification that actual possession must be transferred to the receiver(s).

The mufti posed a few simple questions about the members of the family, the father’s estate and the deed of gift. Finally, he asked to see the deed. The young man did not have it with him and volun-

⁵⁹ Imam Haramain (?) Sadr ul-millah Yaqub Muzaffar Karami, *Fiqh-i Firūzshāhi*, Arabic and Persian mss. 2564, India Office Library.

⁶⁰ Kozlowski, *Muslim Endowments*, 101–2.

⁶¹ Kozlowski, ‘Process and Decision.’

teered the information that the document was not registered. When asked about the family's living arrangements during his father's lifetime, the young shopkeeper mentioned that he and his brother lived in the house their father had given them. In response to further questioning, he admitted that they had paid rent to their father, a sign that a transfer of the property might not have taken place while the father lived thus making the deed of gift moot. When the mufti inquired whether the deed had a date, the shopkeeper professed not to know. The interview ended with the young man saying that he would return another day with the deed.

When questioned about his reasons for coming to the Jamiah, the shopkeeper admitted that he and his brother were contemplating a suit in the government courts. When he had gone to an advocate, the lawyer told him to approach the mufti. This did not appear to foreclose the possibility of a suit in the civil courts. Indeed, the young man was very likely in search of a fatwa which could be used as evidence during a trial in the secular courts. Possessing such a statement validating the deed of gift could be persuasive in that venue, especially since the document was not registered. Failing to obtain immediate confirmation, the young man left without really making it certain that he would return.

The mufti himself was quite aware of the procedures and preferences of the secular courts. He knew very well that his *fatawa* would be recognized by them. In its description of the *Dār'ul-iftā'* department, the annual report of the Jamiah Nizamiyyah mentions, with a certain triumphal tone, that India's courts consider its fatawa to be authoritative.⁶² Many nineteenth-century reformers had a very different evaluation of the government's courts. The Deobandis, for example, urged their followers to avoid completely the courts of British India and rely solely on the adjudication which their madrasah's scholars offered in all matters. The Deobandi's efforts were not notably successful, especially in matters dealing with property relations.⁶³ Both the mufti and the Jamiah seem to have accepted a duality between their own mediation and the power of secular tribunals; perhaps because exclusivist approaches to disputes do not work.

After the young man's departure, the mufti had little to say about the case. Had the deed of gift been genuine, for example, had it been dated, the mufti said he would have ruled that the arrangement was

⁶² *Report*, 9.

⁶³ Metcalf, *Islamic Revival*, 146-57.

permitted (jaiz), even though the half-brother and three half-sisters would have received less than the full shares of the father's property to which the Quran entitled them. The two brothers, he guessed, were interested in the deed of gift only because they benefitted from it. Finally, the mufti suspected that the young man would not return.

When asked about the source of his skill in seeking not only valid documentary evidence, but in asking the right sorts of questions in a way which did not threaten the petitioner, the mufti, once again, pointed to his books, 'They tell me how to go about that, but experience is also important.' Certainly, his gentle demeanor provided clients with a reason for coming to him rather than going immediately to the civil courts. While the young man in this case had decided, beforehand, on litigation in the state courts, the other individuals who asked for fatawa were not set on that course before they arrived. In their situations, the mediation which the mufti supplied might have saved them the money and time which a civil suit would absorb.

On another day, an elderly gentleman appeared in the mufti's study. He had come once before in regard to a complicated problem involving a loan and its repayment. He was not himself a party in the matter, but acted as a representative for one of three brothers who was a close friend. The brothers asked him to approach the mufti because he knew some of the scholars of the Jamiah personally. Even though he had never asked for a fatwa himself, he had the greatest confidence in the institution. He said, 'Since childhood, I have heard only one name: Jamiah, and I do not care for Deoband or any other.' The old man was himself a noted figure in Hyderabad, being the editor of one of city's best known Urdu newspapers. In deference to his advanced age and status, the mufti treated him with special kindness.

On a previous visit, the editor had left a sheaf of papers, including an istifta drawn up in formal fashion. The problem involved three brothers: Bakr, Umar and Zayd and a Hindu moneylender identified as Shankar. As framed, the istifta was misleading, making it seem that Bakr had borrowed directly from Shankar, while Umar and Zayd merely witnessed the agreement. In that form, the mufti could give no fatwa, because the arrangement appeared to be between a Muslim and a Hindu and thus outside of the shariah's competence. After a good deal of discussion filled with asides and digressions, a more accurate picture of events began to emerge.

Bakr, the eldest brother, was a government official who acted as guarantor of the loan. Umar knew the moneylender and approached

him on behalf of his brother Zayd. Shankar was not personally acquainted with Zayd and reluctant to give him a loan. Therefore, Umar acted as Zayd's agent, taking an agreement which involved a loan of Rs 14,000 and an agreed repayment of that principal plus Rs 40,000 over a period of three years. While Umar had repaid the loan plus the 'interest,' in the ten year period between 1975 and 1985, Zayd had given his brother only the Rs 14,000 of the principal, without the Rs 40,000 in interest. Perhaps Zayd had genuine doubts about the propriety of one Muslim taking interest from another or he might simply have been stalling on his obligation. He finally agreed to pay, if Umar and Bakr could obtain a fatwa saying that he should give his brother the outstanding Rs 40,000.

Once the situation had been partly clarified, the mufti remarked that it was not really a matter of one Muslim taking interest from another. The original agreement, between Umar, acting as Zayd's agent, and Shankar involved a total sum of Rs 54,000, therefore Zayd was obliged to fulfill that contract with his brother.

Throughout the lengthy discussion of this series of transactions, the elderly editor tried to keep the discourse in terms of the Bakr, Umar, Zayd and Shankar, but he was unable to follow the form consistently. He kept inserting the individual's real names. He sometimes blurted out details: for example, that 'Umar' really needed the Rs 40,000 because his daughter was getting married, which did not bear on the case. These were the remarks which the students found risible and gave the mufti reason to smile ever so slightly. When these elements became clear, the mufti indicated that the *istifta* must be redrawn. One of the witnesses volunteered to do this, so he and the editor retired to another room. When the alterations were made, the mufti immediately set about drafting a fatwa recommending that Zayd pay Umar the outstanding Rs 40,000. Since his clerk was absent and as a mark of his respect for the editor, the mufti did the work himself. In the usual course of events, the mufti drafts a reply quickly in his ordinary handwriting. Later a calligrapher will put it into clear script on stationery with the *Jamiah's* letterhead.⁶⁴ As he wrote the fatwa, the mufti consulted one of his texts, the *Fatih'ul-Qāzī*, and copied three or four lines in Arabic to confirm the opinion he wrote. The editor left, satisfied that the fatwa would resolve his friend's dilemma.

Two Brothers who were farmers arrived with what seemed to be a simple problem of inheritance. Their father had died some years

⁶⁴ On the final form of a fatwa, Kozlowski, 'Process and Decision.'

before. He left five daughters and three sons. In the meantime, one of the daughters who was married died, leaving a husband and two children. Also, one of the sons had died, his wife preceding him in death, also leaving two children as heirs.

On the assumption that it was a simple question of inheritance, the mufti asked the names of the individuals involved (there were too many to make do with Umar and Zayd). These he placed on a grid indicating their relationship to each other. He told the men that he would figure out the appropriate shares some time later. In the course of his questioning, however, another level of difficulty made itself known. The father's land had been mortgaged. In order for anyone to inherit, the mortgage had to be paid off, along with interest and legal fees. The elder brother, who did all the talking while his younger brother merely looked on, claimed that his sisters and in-laws all wanted their shares of the estate, but none of them volunteered to contribute to the repayment of the loan or legal fees.

On hearing this, the mufti indicated that he could not give a fatwa under those circumstances. If the elder brother went ahead with the repayment or put out the legal fees, the responsibility would be his alone. The shariah made no provision ordering heirs to meet jointly the expenses of obtaining their rightful inheritance. He recommended that the man obtain a bond from his siblings and in-laws which involved their promising to help relieve the mortgage as well as meet the legal fees in proportion to what their shares of the property would be. As in the cases described earlier, these discussions were peppered with words and phrases indicating that the mufti as well as the petitioners were aware of the legal alternatives to the mufti's arbitration. 'Stamp paper,' 'court,' and 'law suit,' in their Urdu pronunciations, figured prominently in the mufti's laying out of the options facing the farmer. In this instance, the mediation appeared effective, for several days later the younger brother was sitting in the mufti's anteroom waiting to pick up the fatwa describing the shares which each of the individuals was entitled to.

The final client was a relatively low level clerk in a government office. Of all the petitioners, he seemed the most diffident. He spoke in hushed tones and frequently leaned toward the mufti as if to emphasize a desire that various aspects of his problem should remain private. He and his wife were childless. Some years before, he had purchased a plot of land and built a house which he placed in his wife's name. Now, he said, he wanted to sell that house and buy another, or, barring that, take a loan together with his older brother

to build an addition on the present house. If he did either of these things, should he die before his wife, what would be his own older brother's share? Or, if his wife should die before him, what would be his wife's brothers' share?

While recounting the various elements of his plan, the clerk mentioned that his wife was reluctant either to sell their present home or take out a loan to add on to it. At this, the mufti asked, 'Why the hesitation? You have been married for a long time. Why does she hesitate?' The clerk responded that his wife's brothers were the root of the trouble. Knowing that the house was in their sister's name, they hoped to take it over when she died. Moreover, when the clerk died, the brothers-in-law would be able to prevent his own brother's gaining something from the property.

Once again, the mufti asked for documents. Even though the house was in his wife's name, did the clerk have proof that he had actually paid for it himself? For example, did he have check-stubs? If the clerk could not produce proof that he really owned the house, the mufti professed to be unable to give a fatwa on the matter of the shares going to the brother and brothers-in-law. Having said that, the mufti advised the clerk on an arrangement which might fulfill his desire to guarantee a share of his property to his older brother. 'Why not take a loan from your older brother in your wife's name? In that way, whether you or your wife dies first, your brother will still get something.' The mufti emphasized that the loan had to be written out on government stamp paper and registered, so that it would stand up in the government courts.

Historically, 'family troubles', have been a common source of legal wrangling.⁶⁵ While the entertainment value of such battles probably contributes to their frequency, the amount of money and time spent fighting them can be ruinous. In attempting to prevent these disputes, the mufti acts more as an arbitrator, or even a diplomat, than as a judge. The mere ten rupee fee charged by the Jamiah appears to be a real bargain. But the character of the disputes limits the mufti's influence. Unlike a judge who has government sanction, he cannot enforce either the fatawa he gives or the compromises he suggests. Though his petitioners may sincerely wish to carry out a fatwa or act upon the mufti's hints, their wives, in-laws or friends may not see those as options guaranteeing their own rights in any given conflict

⁶⁵ Kozlowski, *Muslim Endowments*, 79-95 and 'Shah Banu's Case'; also D. Powers, 'Fatawas as Sources.'

real or potential. In this basic dilemma, the highest ideals fostered by Islam confront the vagaries of human shortsightedness and greed. Apart from noting this seemingly insoluble religious problem, what generalizations are appropriate from the observation of the practice of fiqh in a particular time and place?

Conclusion

Even in scholarly works, comparisons of shariah, defined as Islamic law, with Euro-American legal traditions usually make the latter the standard against which the former is measured. Shariah almost always ends up a poor second, third or fourth to some idealized version of American or European law. The legal ideologues of the West stress that their own traditions are progressive, adaptable and independent of the state. Shariah becomes the focus of criticisms that it is retrograde, static and ultimately subservient to brute political force.⁶⁶ For their part, defenders of Islam, laud shariah's divinely inspired wisdom, high moral standards and superiority to man-made codes.⁶⁷

Both systems, for all their preference for abstract principles of justice or divine guidance, ultimately depend on human beings for their implementation. That reality goes beyond merely pointing out that an individual Qazi or circuit court judge might be venal or too easily swayed by political pressure, it seems to involve an inability to view either shariah or law as part of history. That is to say that the ideals of each system have always been in complex relationships with specific social, political, economic and religious contexts. Their ideals have shaped as well as been shaped by shifting circumstances involving the nature and composition of family groups, elite and subordinate classes, levels of education, types of occupation and the other myriad forces creating human aggregations.⁶⁸ Neither system can be comprehended simply as an ideal.

The study of shariah in arenas limited to smaller temporal and social fields: Hyderabad, the Jamiah Nizamiyyah, the mufti's study,

⁶⁶ Turner, *Weber and Islam*, 107-21.

⁶⁷ A. Mawdudi, *The Islamic Law and Constitution* (2nd edn), K. Ahmad (trans.) (Lahore: Islamic Publications, 1960), 100ff.

⁶⁸ For a number of attempts to relate the history of British law to its social history, E. Thompson, *Whigs and Hunters* (New York: Random House, 1975); *Albion's Fatal Tree*, D. Hay, et al. (eds) (New York: Random House, 1975) and P. Linebaugh, *The London Hanged* (London: The Penguin Press, 1991).

and the near present, can provide that sense of context so often lacking in purely legal research. Looking at such a situation reveals that shariah has obviously changed, adapted itself to new social, political and economic circumstances while maintaining its independence from the state. The present defines a world very different from the one in which Shaykh Anwarullah lived. The mufti finds himself occupied on a daily basis with feuding spouses, mortgages, loans, avaricious brothers-in-law and a host of other mundane problems. The mufti seems acutely aware that he confronts these issues in an environment where the apparatus of the state requires registered documents written on stamp paper. He does not condemn these things, he takes them into account as he goes about the task of trying to find the good and avoid the evil in situations where neither of those might be absolutely clear.

Modern scholars and religious reformers might assume that this represents a departure from tradition, a decline from the days when shariah was the law in Islamic states. That is an idealism of another sort, one which also pays little attention to historical circumstance.⁶⁹ In some ways, the mufti may be more influential today than his equivalents were in the past. After all, the mufti's approach, based on a desire to insure that a balance obtains between individuals who may have completely opposite desires, has some advantages over modern Indian courts which adopted Euro-American legal practice. In them, an adversarial *modus operandi* predominates. The claims of one must triumph over those of another. A loser must give and a winner must take. The finality of decisions rendered by such institutions probably appeals to many more than the 1,500 or 2,000 people who yearly seek the mufti's counsel. But, they and the mufti seem attracted, for a host of theological and practical reasons, to a system in which only God is truly right; leaving a broad field on which humans may negotiate over that which is necessarily less than absolute.

⁶⁹ Kozlowski, 'When the Way.'